

L.J. v. Massinga Independent Verification Agent

Certification Report for Defendants' 68th Compliance Report

Appendix 1

IVA Response to Defendants' Report on Additional Commitments

Defendants' 68th Report, pp. 39 - 66

(January 1 – June 30, 2022)

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1. Preservation and Permanency

There are seven Additional Commitments in the Preservation and Permanency section.

1. *Based on an analysis of the needs of the children and families that come to the attention of BCDSS, BDCSS will determine biennially the level of need and the amount of funds needed to fund in-home family preservation services, separate and apart from the regular program of protective services and safety case management services, to provide each family of a child at risk of removal with in-home family preservation services in a duration and intensity reasonably calculated to enable the child to remain with the family without removal. The DHR Secretary (“the Secretary”) shall include in the DHR budget proposal funds that are sufficient, in the Secretary’s judgment, to ensure that in-home family preservation services are available in the size and scope determined by the assessment and, if included in the Governor’s budget, shall advocate for the appropriation of such funds by the General Assembly.*

Defendants: “... [T]he funding from DHS to support activities to preserve families was sufficient during the 68th reporting period.” (Defts’ 68th Rep., pp. 39, 40)

IVA response: Not in compliance.

Defendants still have not provided the required assessment and analysis of the needs of children and families requiring assistance from BCDSS to determine the level of need and amount of funds needed for in-home family preservation services. In their 66th Report the Defendants acknowledged the IVA concerns that an analysis has not been completed: “Options are being considered for completing an analysis of the allocation by identifying the number of families served over time.” (Defts’ 66th Rep., p. 22). The IVA did not receive an analysis during the 67th or 68th reporting periods. Instead, the Defendants appear to rely on a “look back method that

highlights the sufficiency of the annual allocation.” (Defts’ 68th Rep., p. 40). While the Defendants may claim to be confident in this method, it does not meet the requirements of the MCD.

Limited information is provided regarding the number of staff dedicated to Family Preservation Services, approximate number of families served since the start of the 68th reporting period, and funding available from different sources. Defendants state that the number of caseworkers assigned to Family Preservation - 45 - remained consistent throughout the 68th reporting period. They do not provide any specific information to support that statement, and do not provide information as to whether the unit was fully staffed during that time. Review of the personnel transaction reports appear to indicate that Family Preservation in fact experienced a significant staffing decline in 2022. During 2022, eleven caseworkers and social workers and three supervisors left Family Preservation, and only 4 four caseworkers were hired. Review of staffing from March 2023, shows 21 unfilled positions in Family Preservation: 14 caseworkers and social workers, five supervisors, one support worker, and one unit manager.

There is no analysis of the needs of the children and families that come to the attention of BCDSS, just a list of what types of expenditures may be covered and a sample of how funds were spent. Additionally, most of the funding sources mentioned must also cover needs and services outside of in-home family preservation services, including for children in foster care.

The IVA urges the parties to determine what must be included in an analysis to meet the requirements of this Additional Commitment. Until that time, the IVA will not be able to certify this requirement.

2. *The Secretary shall include funds in the DHR budget proposal that are sufficient, in the Secretary’s judgment, to ensure that services and assistance are available for all children (and their families) who come to BCDSS’s attention as being at risk of placement into OHP or who are*

in OHP and have permanency plans of reunification with their families, and, if included in the Governor's budget, shall advocate for the appropriation of such funds by the General Assembly.

Defendants: In Compliance (Defts' 68th Rep., p. 41)

IVA response: Not in compliance for the same reasons stated in previous IVA reports

The IVA reiterates the response provided in the response to previous reports: For this Additional Commitment, Defendants provide no justification or documentation for explaining why the \$4 million in super flex funds is sufficient to meet the requirements of this Additional Commitment. The amount allocated by DHS to BCDSS for flex funds has remained at "over \$4 million" since they began reporting on this Additional Commitment for the 63rd reporting period (2019) and through the 68th reporting period (2022) without providing documentation of the basis for this amount being sufficient.

This Additional Commitment is closely tied to the first Additional Commitment in this section. We urge the parties to discuss what process or documentation can be provided to demonstrate compliance with this requirement of the MCD.

3. DHR shall contract for a formal evaluation of the efficacy of its family-centered practice initiatives. This evaluation shall be completed within two years of the signing of this Consent Decree. This contract is subject to any required approvals by the Department of Budget and Management and the Board of Public Works. In addition, DHR/BCDSS shall routinely collect data on the efficacy and safety of its practices in utilizing family-centered practice and team decision-making to avoid the removal of children.

Defendants: No clear claim of compliance. (Defts' 68th Rep., p. 41)

IVA response: Not in compliance.

Defendants discuss the launch of the Place Matters Initiative in 2007 (two years prior to the signing of the MCD) followed by the implementation of the Integrated Practice Model and the FIM reboot in response to this Additional Commitment. However, this does not constitute a “*formal evaluation of the efficacy of its family-centered practice initiatives*” as required. Again, the IVA is unable to certify this Additional Commitment without the required evaluation. Furthermore, this Additional Commitment requires collection of data on “*the efficacy and safety of [DHR/BCDSS] practices in utilizing family-centered practice and team decision-making to avoid the removal of children.*” There is no such data included with this report to meet this requirement. One of the necessary, but relatively simple steps that Defendant DHS needs to take to collect the required data is to add in the meetings section of the CJAMS application a field to require input of the outcomes of Family Team Decision-Making Meetings (FTDMs).

Given the time frame initially placed on this requirement and the passage of time since the signing of the MCD, we urge the parties to discuss what documentation would demonstrate compliance with this requirement in the future.

4. *BCDSS shall continue to provide opportunities for youth in OHP to meet with one another and with the BCDSS Director, other high-level officials, and providers of youth services to talk about problems and needs for children in OHP and to develop effective ways to provide opportunities to express concerns and report problems. With the assistance of youth, DHR shall develop a handbook for youth exiting OHP that provides information on available community resources.*

Defendants: In Compliance. (Defts’ 68th Rep., p. 42)

IVA response: Partial Compliance.

Again, as explained in previous IVA reports, the Defendants provide considerable and detailed information about programming through the Ready by 21 program. This information regarding the Youth Advisory Board and other Ready by 21 programs is helpful, and the IVA is pleased to see the breadth of activities to engage and support youth in the Ready by 21 program. While these programs meet some requirements of this Additional Commitment, including opportunities for youth to meet with one another, Defendants have not met all the requirements of this Additional Commitment. As stated in the IVA's responses to previous reports, Defendants should supply documentation of events or meetings between youth in OHP and the BCDSS director, other high-level officials and providers of services during each reporting period.

In their 67th report, Defendants shared plans for a quarterly "Talk with the Director" meet-ups in an attempt "to systematize opportunities for young people to speak with Agency leadership" (Defts' 67th Rep., p. 56). However, this was not implemented during the 68th reporting period. Defendants have restated their plan to pilot this opportunity and to provide documentation of these opportunities to the IVA. (Defts' 68th Rep., p. 42). After receiving documentation, the IVA will reconsider this Additional Commitment for certification in future reporting periods.

5. *BCDSS shall create an intensive case management plan for youth ages fourteen through twenty who frequently are missing from placement or are experiencing multiple disruptions in placements. These youth shall receive an intensive array of supportive services.*

Defendants: Partial compliance. (Defts' 68th Rep., p. 42)

IVA response: Not in compliance.

Defendants created an Intensive Case Management (ICM) unit and released a new standard operation procedure regarding the unit. However, due to significant staffing issues, the unit has not been fully staffed and many youth who could benefit from the services of the ICM unit are not

receiving ICM services. Defendants have reported that “the ICM Team staffing numbers are negatively impacted by the statewide workforce hiring difficulties” and that “at the present time there is one Casework Specialist assigned to the ICM Team.” (Defts’ 68th Rep., p. 43). The IVA will reconsider compliance with this Additional Commitment when the unit is fully staffed.

6. *By September 30, 2009, DHR/BCDSS, in partnership with outside experts and advocates for children, including Plaintiffs’ counsel, shall create and, thereafter, DHR/BCDSS shall implement and maintain a plan to provide comprehensive services to children in OHP to meet the goals of the children being ready by age twenty-one for successful transition to adulthood.*

Defendants: No clear statement of compliance. (Defts’ 68th Rep., p. 43)

IVA response: Insufficient information and documentation to determine compliance.

Again, the Defendants provide an extensive detailing of the programming available to youth through the Ready by 21 Program as well as the number of participants in these programs. However, these program offerings do not constitute a plan to provide comprehensive services to children to prepare them for adulthood. Defendants also discuss the five benchmark areas of the Ready by 21 Program. These benchmarks “represent important stages in development that youth are encouraged to complete to be prepared for self-sufficiency by the age of 21.” (See: <https://mylife.mymdthink.maryland.gov/ready-by-21-benchmarks/>). However, it is unclear to the IVA how the identification of these benchmarks constitutes a plan “*to provide comprehensive services to children in OHP to meet the goals of the children being ready by age twenty-one for successful transition to adulthood*” as required by the MCD. Therefore, the IVA is unable to determine compliance with this Additional Commitment. The IVA encourages the parties to meet to discuss whether a plan is still necessary and what would comprise a sufficient plan.

Furthermore, data obtained by the IVA indicates that Transition Planning for youth ages 14 and over is not happening as required by both the MCD and the State. According to the most recent version of the CJAMS report on this issue, less than 3% of youth ages 14 - 20 had the required transitional planning meeting during the reporting period. During the period from July 1 - December 31, 2022, less than 5% had the meeting. Without transition meetings being held and transition plans being completed, Defendants cannot plan for youth to get the individualized services needed for successful transition to adulthood.

7. *By December 2009, DHR shall develop and implement a program pursuant to which each child whose caregiver seeks and receives custody and guardianship from the juvenile court and meets the legal requirements for a guardianship subsidy receives such a subsidy in an amount that conforms to the requirements of federal law. Such subsidy shall continue until the child is eighteen years of age or, if disabled or attending school or training, until the youth is twenty-one years of age.*

Defendants: In Compliance. (Defts' 68th Rep., p. 58)

IVA response: In Compliance.

While this requirement is in technical compliance, it is important to note that the foster care rate to which the guardianship subsidy rate is tied, is not in compliance with the MCD (see discussion below) and that inflation is a very serious concern. This rate has remained the same for several years and, given the current high levels of inflation, could not possibly go as far as needed to meet the financial needs and costs of those taking custody and guardianship of children from the foster care system.

2. Out-of-Home Placement

There are ten Additional Commitments in the Out-of-Home Placement section.

1. *By December 31, 2009, DHR/BCDSS shall complete its assessment of the range of placements and placement supports required to meet the needs of children in OHP by determining the placement resource needs of children in OHP, the availability of current placements to meet those needs, and the array of placement resources and services that DHR/BCDSS needs to develop to meet those needs in the least restrictive most appropriate setting, including sufficient family placements for each child who does not have a clinical need for a non-family placement, family placements available for emergency placement needs, placements appropriate to meet the needs of children with serious mental health problems and children with developmental disabilities, and appropriate facilities and programs for semi-independent and supportive independent living. The assessment shall be conducted biennially.*

Defendants: “BCDSS/DHS contracted with the UMSSW for the assessment required for commitment.” (Defts’ 68th Rep., pp. 58, 59)

IVA response: Not in compliance.

In September 2020, Defendants contracted with The Institute for Innovation & Implementation at the University of Maryland School of Social Work (UMSSW) to complete a new biennial needs assessment to be completed by May 2021. The completion of this assessment was delayed by more than a year, in part due to issues related to CJAMS access and documentation. In June 2022, Defendants shared the final version of a report titled the “Baltimore City Placement Review” which the Defendants have attached to their 68th Report as Attachment 1.

At the June 2022 *L.J.* Problem-Solving Forum, the Plaintiffs and the IVA shared their concerns about the Placement Assessment and that it did not meet the requirements of the MCD for several reasons:

- (1) It fails to identify the placement needs of children in foster care in a quantifiable way.
- (2) It lacks specificity regarding placement and service needs which does not allow for a determination to be made as to whether the availability of current placements and services meets those needs.
- (3) It does not address specific components of the Additional Commitment including least restrictive placements, family placements for all youth who do not have a clinical need for a non-family placement; emergency family placements; placements for children with serious mental health problems and/or developmental disabilities; and programs for semi-independent and supportive independent living.

On September 22, 2022, Plaintiffs' counsel sent Defendants a letter and memo further detailing the reasons why the "Baltimore City Placement Review" does not meet the requirements of the MCD in substance or process. (Plaintiffs' letter and memo are included as Attachments 9 and 10 to the IVA's Response to Defendants' 68th Report.)

At the November 28, 2022, LJ forum, Plaintiffs' counsel and Defendants agreed to work together to design a new placement assessment. Two assessments, one from Oregon and one from Washington, D.C., were shared as samples of what a new placement assessment could look like for the purposes of meeting this requirement of the MDC. Director Stocksdale agreed to convene a small workgroup to discuss the elements required by the MCD and who could complete this sort of assessment. This workgroup has met but further discussions are on hold given the change in administration and the need for State-level involvement.

2. *The DHR Secretary shall include in the DHR budget proposal funds that are sufficient, in the Secretary's judgment, to secure and maintain the array of placement resources and supports needed for children and youth served by BCDSS (including those needed to support the stability of placements and the ability of caregivers to meet the needs of children in OHP and to avoid placement of children in congregate care) and, if included in the Governor's budget, shall advocate for the appropriation of such funds by the General Assembly.*

Defendants: "New placement needs assessment was complete." (Defts' 68th Rep., p. 59)

IVA response: Not in compliance.

As the IVA has clearly stated, the placement assessment completed by the UMSSW does not meet the MCD requirements. Without an adequate biennial assessment as required by OHP Additional Commitment 1, Defendants cannot comply with OHP Additional Commitment 2.

3. *BCDSS shall provide stipends to emergency shelter care homes even in months in which children are not provided care to assure that such homes remain available for emergency placements. The Secretary shall include funds annually in the DHR budget proposal that are sufficient, in the Secretary's judgment, to meet these requirements and, if included in the Governor's budget, shall advocate for the appropriation of such funds by the General Assembly.*

Defendants: No clear claim of compliance or non-compliance. (Defts' 68th Rep., p. 59)

IVA response: Not in compliance.

Defendants have provided conflicting information regarding this Additional Commitment. In their 68th report, Defendants describe the stipend to emergency foster homes as an "outdated concept" and not appropriate for the youth for whom they are having difficulty finding a placement. (Deft's 68th Rep., p. 59). However, despite these claims, Defendants state in the data chart for the 68th report, Measure 38, that "The Resource Unit Program manager is currently

surveying and engaging foster parents to become emergency placement providers.” (Defts’ 68th Rep., p. 96).

In addition, the Defendants have never proposed a modification to this requirement as clearly stated in the Additional Commitment: “*Should BCDSS determine that this provision is not necessary to achieve the outcomes of this Consent Decree, BCDSS will propose a modification to this Consent Decree about which the parties will negotiate in good faith.*” If BCDSS does not intend to comply with this Additional Commitment, they should seek the modification rather than continue to simply report that zero homes are on retainer or that emergency foster homes are not a suitable placement for youth that are experiencing overstays in DSS offices or hospitals.

4. *Within ninety days of this Consent Decree, DHR/BCDSS shall issue an RFP and shall provide funding sufficient to operate a kinship caregiver support center(s) which includes: provision of resource information and support services to caregivers; the development and maintenance of a website; transportation assistance to referrals, activities and appointments related to the care of children; staff training; training for caregivers; and the development and support of a statewide network of support groups for kinship caregivers. This contract is subject to any required approvals by the Department of Budget and Management and the Board of Public Works.*

Defendants: “committed to the creation of a Kinship Resource Center” (Defts’ 68th Rep., pp. 60, 61)

IVA response: Not in full compliance.

More than a decade after the signing of the MCD, Defendants have made progress on the creation of a Kinship Resource Center. This project is not being developed through an RFP, but rather through resources and staff at BCDSS. The creation of a “brick and mortar” Kinship

Resource Center was delayed due to COVID restrictions. However, a soft opening of BCDSS KinCare Center, located at 2923 E. Biddle Street, occurred in spring of 2022. This soft opening allowed for BCDSS staff to visit the center and obtain information for kin providers. In October 2022, the center opened to the public. BCDSS shared an electronic version of the KinCare Center brochure with the IVA and CINA attorneys at the quarterly meeting with Director Stocksdale in February 2023. It is not known how widely these brochures are disseminated or where they are available to kin providers. The KinCare Center has been publicized to BCDSS staff and they are expected to share the information with kin providers.

In addition to the creation of a kinship care support center, there are a number of other services required by this provision including – *“transportation assistance to referrals, activities and appointments related to the care of children; staff training; training for caregivers; and the development and support of a statewide network of support groups for kinship caregivers.”* The IVA does not have information about the availability of these other services. This Additional Commitment also requires that the Defendants *“provide funding sufficient to operate a kinship caregiver support center(s).”* The budget for the KinCare Center has not been shared with the IVA, and, therefore sufficiency of the budget cannot be assessed. What the IVA does know is that existing BCDSS staff were charged with developing the center and identifying other existing staff to assist in the project. There is only one Kin Navigator for OHP, and the center is still hoping to offer some legal services to kin but does not currently have legal staff available.

The IVA will plan a visit to the KinCare Center later this spring. We look forward to learning more about the center, the Kinship Navigator, the issues presented by kin caregivers, data collected about kin use of the center and how the center’s work helps the agency to achieve their

goal of placing more children with kin caregivers with sufficient support to help make those placements stable and, if needed, permanent.

5. *DHR shall set the Semi-Independent Living Arrangement rate at no less than 95 percent of the foster care payment rate for teens by July 1, 2009 and shall make adjustments annually thereafter to match increases in the foster care rate as included in the budget. To satisfy this requirement, the Secretary shall include funds annually in the DHR budget proposal that are sufficient, in the Secretary's judgment, to meet these requirements and, if included in the Governor's budget, shall advocate for the appropriation of such funds by the General Assembly.*

Defendants: In compliance. (Defts' 68th Rep., pp. 62, 63)

IVA response: In compliance.

As per the Ready by 21 Policy Manual, Defendants apparently are in compliance with this requirement. As Defendants have acknowledged, however, the governing regulations (.07.02.10.15.B(3)) and policy releases for resource home payment increases (most recently, SSA 19-16 (5.28.19) do not reflect this requirement and need to be updated to guarantee raises in the SILA rate when resource home rates are increased. Defendants have provided no information about when they intend to promulgate the new regulations.

While this requirement is in technical compliance, it is important to note that the foster care rate to which the SILA rate is tied is not in compliance with the MCD (see discussion below) and that inflation is a very serious concern. Given current high rates of inflation, it is unlikely that the stipend could go as far as would be required in order to meet the financial needs of foster youth in the SILA program.

6. *DHR shall set the foster care payment rate at no less than the Foster Care Minimum Adequate Rates for Children (“MARC”) [1]¹ standard. Until the MARC standard, as adjusted for cost of living, meets the foster care payment rate currently in effect for FY 2009, DHR shall not lower the foster care payment rate below current levels. To satisfy this requirement, the Secretary shall include funds annually in the DHR budget proposal that are sufficient, in the Secretary’s judgment, to meet these requirements, and, if included in the Governor’s budget, shall advocate for the appropriation of such funds by the General Assembly. The Secretary shall include funds annually in the DHR budget that are sufficient, in the Secretary’s judgment, to modify the foster care payment rate to reflect a COLA adjustment and, if included in the Governor’s budget, shall advocate for the appropriation of such funds by the General Assembly.*

Defendants: No clear claim of compliance. (Defts’ 68th Rep., p. 63)

IVA response: Not in compliance.

The Defendants have again failed to address the concerns raised in the IVA’s previous reports regarding this Additional Commitment. In order to meet the MARC and maintain it, Maryland should be providing an annual increase matching the increase in the cost of living. Yet, despite the fact that the cumulative rate of inflation has been 17.7% between 2019 to 2023 (usinflationcalculator.com, accessed 3/25/23), there has not been an increase in the public foster care board rate since FY2019 when there was a 1% increase. In their 66th Report, Defendants stated that an increase in the foster care board rate was planned for January - June 2022. However, no such increase appears to have occurred. Defendants state that private agency providers received

¹ See University of Maryland School of Social Work, “Hitting the M.A.R.C.: Establishing Foster Care Minimum Adequate Rates for Children” (October 2007) (attached as Exhibit 2 to the MCD). [This is the original footnote from the MCD.]

an increase in 2022 but do not provide any explanation for why the public foster care board rate was not increased. Given the current rate of inflation, this should be a priority.

Defendants note that Maryland “continues to be at the top end of the scale in payments to providers.” While this may be true (no data or evidence is provided), Maryland is also at the top end of the scale in cost of living.²

7. *By September 2009, DHR/BCDSS, with the assistance of individuals knowledgeable about the issues, shall study and develop a plan to address the particularized needs of unlicensed kinship care providers for children in OHP, including remediation of problems discouraging or prohibiting licensure.*

Defendants: No clear statement of compliance. (Defts’ 68th Rep., p. 63)

IVA response: Not in compliance; lack of documentation.

See discussion above regarding Additional Commitment 4 (Kinship Resource Center). For this Additional Commitment, the Defendants shared some information regarding the obstacles preventing some kin caregivers from becoming approved restricted foster care providers. It is unclear how these barriers were identified, and no defined plan is provided to overcome the barriers. BCDSS has established a kin workgroup and recently invited IVA staff to participate. A work plan dated January 2022 was shared with the IVA, but this document is incomplete, and no update has been provided.

In February 2023, the Administration for Children and Families (ACF) published a Notice of Proposed Rulemaking (NPRM) in the Federal Register (88 FR 9411) proposing to amend federal regulations to allow title IV-E agencies to adopt separate licensing or approval standards

² See, e.g., <https://www.cnbc.com/2022/07/13/these-are-americas-10-most-expensive-states-to-live-in.html>
<https://www.creditkarma.com/insights/i/cheapest-states-to-live-in#overall-cheapest-and-most-expensive-states-to-live-in-for-2022>.

for relative or kinship foster family homes. The purpose of these amended federal regulations is to “encourage title IV-E agencies to adopt licensing or approval standards for relative or kinship foster family homes that place as few burdens on such families as possible, consistent with ensuring the safety and well-being of children in foster care.”³ We hope that the Defendants will take advantage of loosening federal requirements for kin provider licensing.

8. *To meet the requirements of Outcome 4 (as defined) of this Section to provide funding for child care, DHR/BCDSS shall continue without interruption to provide funding for child care to caregivers to at least the extent required by DHR Policy SSA 08-17 (attached as Exhibit 1). Defendants agree to extend the provision of child care to include before- and after-school care, vacation and holiday care, and sick day care, as needed, for all children ages twelve and under, but only to the extent funds are available from savings generated through the documented reduction in the use of congregate care. To satisfy this requirement, the Secretary shall include funds annually in the DHR budget proposal that are sufficient, in the Secretary’s judgment, to meet these requirements and, if included in the Governor’s budget, shall advocate for the appropriation of such funds by the General Assembly.*

Defendants: In compliance. (Defts’ 68th Rep., p. 64)

IVA response: In compliance.

The IVA has no information that caregivers needing childcare have been denied access to the necessary funding. However, Defendants’ “Complaint Process Summary Report for the 68th L.J. Compliance Report” (included as Attachment 13 to the IVA’s Response to Defendants’ 68th Report) does indicate that there were twenty complaints about finance issues during the 68th

³ https://www.federalregister.gov/documents/2023/02/14/2023-03005/separate-licensing-standards-for-relative-or-kinship-foster-family-homes?utm_campaign=subscription+mailing+list&utm_medium=email&utm_source=nprm021423

reporting period, and the majority of those were for delays in daycare payments. This is another area where Defendants risk losing access to valuable kin resources by not ensuring timely payment for child care. Unlicensed kin are likely to be the most vulnerable to having to relinquish care of children if the childcare bills do not get paid on time.

9. *By September 30, 2009, DHR/BCDSS shall provide documentation of policies and implementation of policies for ensuring that children in OHP who are expecting a child or who are parents receive services and assistance appropriate and sufficient to assist the child to acquire parenting skills.*

Defendants: “continues to work to meet this commitment” (Defts’ 68th Rep., p. 64)

IVA response: Insufficient information and documentation to determine compliance.

For the same reasons stated in the IVA’s previous responses to this Additional Commitment, the IVA is unable to determine compliance. Defendants do not provide information about or documentation of any actual policies that outline and ensure the services. IVA requested and received a copy of the “Expecting and Parenting Supervision Addendum Form” that Defendants reference. However, Defendants do not explain how this supervision addendum form, alone or as a part of other practices and policies, results in ensuring that pregnant and parenting youth receive the services needed to acquire parenting skills.

10. *By September 30, 2009, DHR/BCDSS shall provide documentation of policies and implementation of policies for ensuring that the input of children and caseworkers was considered in the reassessment, recertification and relicensing of a placement.*

Defendants: No claim of compliance. (Defts’ 68th Rep., p. 65)

IVA response: Not in compliance.

Defendants provide no documentation of policies or implementation of policies for ensuring such input. Defendants state that Resources and Support workers gather information from children and children's caseworkers about the care received during the annual reconsideration of foster homes. They acknowledge that they do not have a system to track and document the information that they receive but are exploring use of the CJAMS provider record as a place to document this information and feedback. In addition, as of the drafting of this report, it is not known if reconsiderations of foster homes are even being completed timely. The CJAMS provider module which should supply that information still has numerous defects which are hindering the agency's ability to obtain accurate data on a number of aspects of their work in licensing and monitoring foster homes, including timely reconsiderations.

3. Health Care

There are four Additional Commitments in the Health Care section.

1. By June 2009, BCDSS will implement the BCDSS Health Care Initiative for all children newly entering OHP and all children in OHP with complex medical needs. Defendants shall provide Plaintiffs copies of the standards developed by the Medical Director as required in Definition C (2) of this Section.

Defendants: In compliance. (Defts' 68th Rep., p. 65)

IVA response: In compliance.

2. By March 2009, BCDSS shall establish and thereafter maintain a Health Care Advisory Council, including medical experts and advocates for children from outside BCDSS, DHR, and the Department of Health and Mental Hygiene, to provide guidance on implementation of the requirements of the BCDSS Health Care Initiative.

Defendants: In compliance. (Defts' 68th Rep., p. 65)

IVA Response: In compliance.

During the reporting period, the Health Care Advisory Council continued to meet quarterly. The Council is actively seeking to fill a few positions on the Council including a practicing dentist, preferably someone who treats or has treated the foster care population; a representative from the Baltimore City Health Department; and a representative from The Center for Hope. However, the IVA is concerned about the lack of youth, parent and caregiver voice on the Council. A youth was recruited for the Council but has not participated for some time. We encourage the Defendants to ensure that both youth and others with lived experience such as parents and caregivers are represented on the Council in ways that facilitate their full involvement.

3. *By August 2009 and annually thereafter, BCDSS/DHR, in consultation with the medical director and the Health Care Advisory Council, shall develop a plan, a timetable, and a funding strategy for inclusion in the FY 2011 and subsequent budget requests funding sufficient in the Secretary's judgment to accomplish full implementation of the requirements of the BCDSS Health Care Initiative for all children in OHP.*

Defendants: In compliance. (Defts' 68th Rep., p. 65)

IVA response: Not in full compliance.

On July 1, 2020, a five-year contract with the MATCH program was implemented. This contract included an expanded scope of work and a significant increase in funding. With these additional resources the IVA had hoped to see an increase in compliance rates for the health care measures and improved health outcomes for children in foster care. The IVA will continue to monitor for full implementation of the expanded MATCH program including health-related documentation in CJAMS.

The Defendants have not provided any documentation to support their claim of compliance related to “consultation with the medical director and the Health Care Advisory Council.” (Defts’ 67th Rep., p. 65). As members of the Health Care Advisory Council, the IVA and Plaintiffs’ counsel have not been a part of consultation on a plan, timetable or funding strategy to accomplish full implementation of the requirements of the Health Care section of the MCD.

The IVA encourages the parties to discuss this Additional Commitment and how the requirements can be met. The Council members are not selected for the purpose of developing budget requests and may not have the expertise needed for health care management. However, it does appear that some of the health needs of children in foster care are going unmet and it is vital for the parties to determine if this is an issue of insufficient funding.

4. *By December 31, 2010, DHR/BCDSS shall operationalize a system to meet the mental health needs of children in OHP. The system will include access to mental health screening and assessment as well as a continuum of treatment services designed to secure ongoing treatment that meets the needs of children in OHP. DHR/BCDSS will seek the advice and input from the Health Care Advisory Group in the development and implementation of this system.*

Defendants: No claim of compliance. (Defts’ 68th Rep., p. 66)

IVA response: Not in full compliance.

Lack of quality mental health care services and continuity of services for children, particularly for those who experience placement instability, has been a long-standing problem. The Defendants have attached a copy of their Behavioral Health Plan, dated November 30, 2022, to their report. (Defts’ 68th Rep., Att. 4). One element of the Behavioral Health Plan is “Specialized Behavioral Health Services & Foster Care Curriculum” (Behavioral Health Plan, p.

11). BCDSS has partnered with Behavioral Health Systems Baltimore (BHSB)⁴ and Dr. Kyla Liggett-Creel of the UMSSW for the creation and implementation of this new program, now referred to as the BCDSS Youth Wellness Program. (The RFP for this program was discussed in the IVA's 67th Report, Additional Commitments, Appendix 1.) While it was initially hoped that the program would begin accepting referrals in October 2022, the contracted providers have experienced, and continue to experience, delays in hiring of qualified therapists to work with BCDSS youth, resulting in referrals not beginning until February 2023. Much is still to be determined about the implementation, administration and assessment of the new program, and the IVA will continue to monitor the development and implementation of this program for the purpose of compliance with this Additional Commitment.

Other elements of the Behavioral Health Plan, i.e., training of foster parents in the Trust-Based Relational Intervention model, are still not fully implemented either. Defendant DHS' failure over the past decade to accomplish the promised rate reform, which would separate the payment of board costs to private foster care agencies from the payment for services such as mental health, continues to have a negative impact on meeting the goals of this Additional Commitment and, more importantly, the needs of the children in OHP.

4. Education

1. By September 2009, Defendants will develop an implementation plan reasonably calculated to produce compliance with the education requirements of the federal "Fostering Connections to Success and Increasing Adoptions Act."

Defendants: Unclear if Defendants are claiming compliance. (Defts' 68th Rep., p. 66)

⁴ Behavioral Health System Baltimore, Inc. (BHSB) is a non-profit organization tasked by Baltimore City to manage the city's public behavioral health system. As such, BHSB serves as the local behavioral health authority for Baltimore City.

IVA response: Insufficient information and documentation to determine compliance.

Defendants reference a Memorandum of Agreement with Baltimore City that they provided with their 63rd Report. This is an important step towards compliance. However, as the IVA stated in multiple previous reports, a significant number of children in Baltimore City out of home care live and attend school outside of Baltimore City. Defendants do not present any documentation of how they work with the other school systems to ensure educational stability and timely enrollment. The Defendants have provided the same response to this Additional Commitment for the last several reporting periods - more than two years - without having made any progress on this Additional Commitment.

As far back as the 63rd report, the IVA raised the concern that the School Placement Stabilization Memo contains a disturbing error. The memo provides, “The OOE specialist is responsible for completing the BID [Best Interests Determination] form within five business days of being assigned the case” and “[i]f a student must transfer, then the OOE specialist will enroll the youth in the new school five business days of the completion of the BID (Best Interests Determinations Form).” These provisions would appear to permit enrollment of a child in more than ten business days of entry into OHP, far longer than within the five days required by *L.J.* and Maryland regulations. The Defendants did not address this issue in their 64th, 65th, 66th, 67th and now 68th reports and it is not known if this form has been amended.