

L. J. v. Massinga Independent Verification Agent
CERTIFICATION REPORT FOR DEFENDANTS’
69th COMPLIANCE REPORT
July 1, 2022 to December 31, 2022

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Note: Defendants’ six-month compliance reports, beginning with the 64th Report, and the IVA’s Response to those reports can be found on the Maryland Department of Human Services’ website under the “Consent Decree” tab.

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Appendix 1. IVA Response to Defendants’ Report on Additional Commitments

EXECUTIVE SUMMARY

This is the Independent Verification Agent's (IVA) Certification Report for the Defendants' 69th Compliance Report for the reporting period of July 1 - December 31, 2022.

The IVA's last Certification Report discussed the children who make up the foster care population in Baltimore City, including the over-representation of Black children in the population. It highlighted the importance of kinship care, the need to reduce caseloads and the need for more placements for children and youth with complex health and mental health issues. All these issues remain relevant for the 69th reporting period.

Thousands of children and their families have been impacted negatively by a child welfare system that has not met their needs and that continues to leave behind some of Maryland's most vulnerable families and children. Exit from the *L.J.* lawsuit is not impossible - other states have successfully exited their child welfare lawsuits. However, it will take more of an effort by state Defendant Department of Human Services (DHS) to make this happen, as local Defendant Baltimore City Department of Social Services (BCDSS) is limited in its power to make many of the changes that may be necessary for termination and exit.

Progress and promising actions have been made in a few notable areas, particularly at the local level. BCDSS's Innovations Unit has proved to be a valuable and important asset as it has grown into a model for data-led practice improvement. A strong team of data analysts and support staff have been able to work with existing data, particularly important given the lack of accurate CJAMS reports, to assist supervisory staff to target efforts to improve practice.

BCDSS has made significant progress in meeting the required 95% compliance levels for caseworker visits with children in foster care as well as in completing timely Family Team Decision Making Meetings (FTDMs) when a child is at risk of removal from their family. These

FTDMs are a vital tool in preventing removal or identifying possible kin placements if removal does occur. “Considered Removal” FTDMs must occur between three days prior to removal and (if removal is not avoided) three days after. For the 69th reporting period, 70% of children removed from home had FTDMs within this timeframe. This commendable improvement in timely FTDMs can be attributed to combined efforts of CPS and Family Preservation staff, FTDM staff and Innovations staff who have worked closely together to ensure the FTDMs occur, and they are properly documented. The critical data not currently available is the number of children who were not removed when an FTDM occurred. To capture this data, small but long overdue changes need to be made to the DHS CJAMS application interface.

In addition, while the effects of the efforts are yet to be seen, the IVA acknowledges the commitment of BCDSS to become a “Kin First” agency and to infuse a kin-focused culture at BCDSS. BCDSS recently shared the following announcement in a staff email: “We have engaged A Second Chance from Pittsburgh—the foremost practitioners of kinship care in the country—to assist us to reach our goals by building a strategic, data-driven kinship care program that is culturally and racially competent.” One of the first steps in this partnership is a half-day Kinship Values training for all BCDSS child welfare staff to take place at the end of October.

Significant challenges remain. One of the most critical issues facing BCDSS is caseloads which remain unacceptably high. As of the end of the 69th reporting period, 73% of caseworkers had a caseload of 16-24 children, well above the required maximum of 12 children. With little end in sight to the hiring and retention challenges in child welfare, Defendants need to consider other personnel additions and supports as well as broader solutions such as job redesign and organizational change.

The lack of sufficient and appropriate least-restrictive placements for children and youth continues to be a problem, so much so that it was the subject of a recent dispute resolution process

initiated by Plaintiffs' counsel in this case as well as a statewide lawsuit concerning Maryland's other jurisdictions. Due to the lack of available appropriate placements, some children have spent multiple nights in BCDSS' office buildings, while others have been living in hotels. Children continue to spend not just hours but days in hospital emergency rooms waiting for beds in psychiatric units, while others remain in hospitals long past the time they are ready for discharge. Many of these youth are rejected again and again by therapeutic foster care (TFC) providers - all licensed by DHS - who are unwilling to accept teenagers or who do not have homes willing to accept them. Yet, teenagers are 37% of the BCDSS foster care population as of August 2023. This issue must be addressed at the state level as the state and their partner agencies are responsible for recruiting and licensing all TFCs and congregate care placements such as group homes and residential treatment centers.

Determining and addressing the needs of children and families in the child welfare system continues to be hobbled by the lack of available data. Reports for almost half of *L.J.*'s 126 measures continue to be reported by Defendants as "TBD." Despite many years of development followed by deployment beginning in 2019, CJAMS, Maryland's human services database system, is an application riddled with problems. The IVA identified in early May 2022 multiple changes needed for *L.J.* reports. Few of them have been done. Instead of increasing the pace of work on the application and on reports, progress has been brought to a virtual standstill over the past six months as MD THINK staff members were laid off, application changes were halted, and staff available to produce and correct reports was reduced significantly.

For the 69th reporting period, Defendants request certification for four Exit Standards: Measures 52, 121, 125 and 126. The IVA is able to certify Exit Standards 121, 125 and 126.

**IVA CERTIFICATION REPORT FOR
DEFENDANTS' 69th COMPLIANCE REPORT**

I. INTRODUCTION

This is the IVA's Certification Report for the Defendants' 69th Compliance Report covering July 1, 2022 to December 31, 2022. Defendants Baltimore City Department of Social Services (BCDSS) and Maryland Department of Human Services (DHS) provided their 69th Report to the IVA and Plaintiffs on July 5, 2023, more than six months after the end of the reporting period.¹

Pursuant to the Modified Consent Decree (MCD), Part One, Section II. J,

Every six months, Defendants shall submit to the Court, with a copy to the Plaintiffs, a report addressing their performance under the Internal Success Measures and Exit Standards and compliance with the Additional Commitments of Part Two of this Decree, based on data reflecting performance for the six-month period covered by that report. The report shall contain a certification by the Independent Verification Agent as to the accuracy of the report or statement by the Independent Verification Agent of the portions of the report that are not certified and the reasons why they have not been certified.

The responsibilities and activities of the IVA are described in the MCD, Part One, Section

II. A. - D. They read, in part:

B. Verification activities will have two key functions: (1) to provide accurate, independent information to the Court and the parties about system performance to implement the requirements of this Decree; and (2) to provide feedback to Defendants that supports self-correcting measures and ongoing quality improvement by Defendants.

...

¹ While the MCD does not specify a timeline for Defendants' report submission following the end of a reporting period, the length of time between the end of the reporting period and the submission of the report to the Plaintiffs and IVA continues to be excessive for a six-month reporting cycle. In this case, Defendants' report for the 69th reporting period was not provided until after the start of the 71st reporting period. This delay results in the IVA reviewing data for certification that is over a year old when the IVA begins work on the certification report. This issue has been raised repeatedly in previous IVA reports and continues to be of concern.

C. The Independent Verification Agent shall be authorized to verify that: (1) the data and other information reported by Defendants are accurate, valid, and reliable; (2) the measures and methods used by Defendants to report data and other information are accurate, valid, and reliable; (3) Defendants have in place sufficient quality control and review processes to verify accurately and regularly the accuracy of data provided through its management information systems; and (4) Defendants' case review process is accurate, valid, and reliable.

Defendants' reports provide a snapshot of activities of BCDSS during the six-month period covered by the report and, more recently, have included the attempts BCDSS is making to improve the services it is providing to children and families. Despite the fact that Defendant DHS controls nearly all of the funding for BCDSS, as well as is the actual employer of BCDSS staff and the licensing entity for the majority of placements available for the youth in BCDSS custody, Defendant DHS has not contributed information on efforts being made at the state level to ameliorate the problems reflected in the data (and lack of data) provided in this compliance report. Defendant DHS should work collaboratively with Defendant BCDSS to produce a report that reflects the efforts of both the state and the local agency.

II. BCDSS AND DHS LEADERSHIP

Since the signing of the MCD in October 2009, there have been multiple changes in leadership at the state and local levels including four DHS Secretaries and six BCDSS Directors. These changes are likely to have contributed to the lack of progress towards compliance with the MCD. At the local level in Baltimore City, there is now greater continuity as BCDSS Director Brandi Stocksdale has served in her position since November 2020. The stability and growth of her leadership and data analysis teams has been valuable. BCDSS's Innovations Unit has proved to be an especially important asset. Led by Sheritta Barr-Stanley, this unit has grown into a model for data-led practice improvement in Maryland. A strong team of data analysts and support staff

have been able to work with existing data, particularly important given the lack of accurate CJAMS reports, to assist supervisory staff to target efforts to improve practice within their teams.

DHS Secretary Rafael López and Deputy Secretary of Program Carnita White continue in their roles. The position of Social Services Administration (SSA) Executive Director continues to be filled on a temporary basis by Acting Executive Director Stephen Liggett-Creel. There has been no direct contact with or outreach to the IVA by Secretary Lopez or Deputy Secretary White. Since the start of the new administration in January 2023, the only scheduled *L.J.* Forum (which the MCD requires to be held quarterly) was canceled after Plaintiffs initiated the dispute resolution process² due to concerns about placement issues. On October 10, 2023, Defendants, in response to a request from Plaintiffs, agreed to resume forums but no new date has been scheduled as of the drafting of this report. Nothing in the MCD provides for forums to be canceled during the dispute resolution process and, as discussed below, there are a number of other critical issues, particularly data reports and caseloads, that need the parties' attention and strategies for improvement.

III. *L.J. v. MASSINGA*

In the IVA's Response to Defendants' 68th report (p. 7), the IVA provided a history of this case, filed nearly 40 years ago. The parties should keep this case history and the thousands of children and families impacted in the forefront when they look at how the system is and is not functioning. In response to the 68th Report, the IVA also provided information about other child welfare litigation across the country and its status, including many cases that have been successfully settled and exited. Unfortunately, exit from the *L.J.* case is further complicated by the lack of accurate, valid, and reliable data. Without accurate data, the efforts of the Defendants

² The dispute resolution process is described in the MCD, Part One, Section IV. In addition, Defendant DHS has canceled the biweekly one-hour phone call between the parties (and including the IVA) until further notice.

cannot be measured; trends cannot be identified; progress cannot be celebrated; and lack of progress cannot be analyzed and reversed.

IV. MEASURES, DATA COLLECTION AND REPORTING

A. MCD's Outcomes and Measures

The MCD is divided into five substantive sections - Preservation and Permanency Planning, Out-of-Home Placement (OHP), Health Care, Education and Workforce. These sections have 28 required Outcomes for which compliance is measured by a total of 40 Exit Standards and 86 additional Internal Success Measures.³ In addition, the parties and the IVA have agreed that a small number of measures require both quantitative and qualitative measurement. (For these measures, there are subparts “a” and “b” for quantitative and qualitative compliance levels, respectively.) In order to exit the MCD, Defendants must be certified by the IVA as compliant with the Exit Standards for each of the MCD Outcomes for three consecutive reporting periods.

Measure instructions set out what activity is required by each Exit Standard and Internal Success Measure, and how that measure will be tracked and documented in order to produce the required compliance data for reporting. Prior IVA reports have summarized the history and challenges in developing measure instructions. See, e.g., IVA Response to Defs.’ 66th Report, p. 19. The parties and the IVA completed the measure instructions in May 2021.

B. Status of *L.J.* Reports

Unfortunately, despite the completion of the measure instructions more than two years ago, well over half of the *L.J.* data reports are yet to be completed, and, therefore, there is no accurate, valid, and reliable data for these measures. When the measure instructions were completed in

³ Twenty-six of the ISMs are the same as the associated Exit Standards. Therefore, there actually are 60, not 86, independent ISMs for measurement and reporting purposes for a total of 100 separate measures for which reports must be designed and validated.

2021, there was an expectation that reports for all *L.J.* measures would be completed within six months. Instead, in the 69th Report, almost half of the 126 *L.J.* measures' reports continue to be reported by Defendants as "TBD" either because they have not yet been fully developed or because they have been developed but are not yet accurate. In addition, Defendant BCDSS staff subsequently has acknowledged that for at least 15 of the measures for which data was reported, the reports actually are not accurate.⁴ And for 6 additional reports for which data was provided, the data had to be obtained from reports other than those specified in the measure instructions.⁵

C. Data Sources

The data for reporting on compliance with the Exit Standards and Internal Success Measures comes primarily from three sources: (1) CJAMS (Child, Juvenile, and Adult Management System), Maryland's human services database system developed by MD THINK under the auspices and supervision of Defendant DHS; (2) QSR (Quality Service Reviews), intensive case reviews of a stratified random sample of children's cases; and (3) other miscellaneous sources, including data compiled by BCDSS legal services, human resources and training departments and Innovations, BCDSS' data division. About one-half of the measures are reported from CJAMS, one-fourth from QSR, and one-fourth from the other sources.

1. CJAMS

Defendant DHS controls the progress of the creation of reports from CJAMS. MD THINK has developed or is in the process of developing at least 60 separate reports from CJAMS. Defendants remain a significant distance from the goal of producing reports that are capable of extracting accurate, reliable and valid, data from CJAMS. Approximately 10 reports remain to be

⁴ Measures 10, 31, 46, 47, 81/82, 84, 95, 98, 100, 114, 123/125, and 124/126. The IVA offered Defendants the opportunity to correct the report prior to submission to the Court, but that offer was declined.

⁵ Measures 5, 30, 34, 61, 62, and 63.

completed, and most of the others, while completed, have been found to have defects or need enhancements.

In addition, true accuracy, validity and reliability remains unattainable for many of those reports until necessary “fixes” to CJAMS are completed. Despite many years of development followed by deployment beginning in 2019, CJAMS is an application riddled with problems.⁶ The IVA identified in early May 2022, dozens of such changes needed for *L.J.* reports. Only a small proportion of those changes have been made to date, more have been identified since then, and only a few application changes of any kind are scheduled for development every two weeks. Furthermore, the schedules for CJAMS application changes continue to be filled with non-*L.J.* report demands. At this rate, it is not an exaggeration to say that, without substantially more resources dedicated to this work, the needed application changes will not be completed until well into 2025.

As of the completion of the IVA’s Resp. to the 68th Report in April 2023, it had been hoped that a much greater number of reports would be validated as accurate by the completion of the 69th Report. Instead, with no notice by Defendant DHS, the IVA and, apparently, Defendant BCDSS, learned in mid-May 2023, that MD THINK had significant budget problems which had led to laying off of staff. DHS/SSA and MD THINK announced that there would be no further “enhancements,” i.e., corrections, to CJAMS through the summer of 2023, and that the number of staff available to complete and correct *L.J.* reports also would be reduced. As a result, the majority of changes to CJAMS necessary to complete accurate, valid, and reliable reports, has been delayed even further. In July 2023, the IVA learned that MD THINK would be permitted to work only on

⁶ See also Maryland Matters, “How Many Kids Receive State Help for Neglect and Abuse? Md. Council Says They Don’t Know,” (October 19, 2023) at <https://www.marylandmatters.org/2023/10/19/how-many-kids-receive-state-help-for-neglect-and-abuse-md-council-says-they-dont-know/?emci=e2fc42bd-1370-ee11-b004-00224832eb73&emdi=d8bda30c-1770-ee11-b004-00224832eb73&ceid=263808>.

a handful of “priority” reports (currently Measures 9, 65, 72, 75, 82, 83, 99, 112/115, and 113/116) despite the fact that BCDSS Innovations staff continue to find defects in many of the other reports that had been developed as they validated reports in preparation of the data for Defendants 69th and 70th Reports. Recently, even further delay has occurred; there was a period of four weeks when no work at all was done on *L.J.* reports, even those marked as “priority.” As of the date of this report, application changes had not yet restarted since their suspension last May.

As to data input, staff continue to be challenged in using CJAMS to do such critical tasks as creating case plans and service plans, uploading important documents, and timely and sufficiently documenting conversations and meetings. These problems must be resolved if Defendants are to report accurate, valid, and reliable data that will permit the IVA to certify compliance with the *L.J.* measures. Given current caseload levels - 80% of the caseworkers having caseloads over the maximum of 12 children - it is an ongoing challenge for workers to fully document CJAMS. It appears that this problem can be resolved only by the hiring of additional staff or other supports to meet the critical responsibility of documentation in CJAMS as well as making CJAMS more “user-friendly”.

2. Quality Service Reviews (QSRs)

The QSR provides a case-based appraisal of frontline practice created for human services agencies to improve results.⁷ Cases for review using the QSR system are selected through a stratified random sampling of cases. The QSR uses a standardized protocol with a number of indicators to measure and rate the current status of a child and the child’s family in key life areas and to appraise performance of key service system practices for the same child and family. In previous reports, the IVA has provided detailed explanations of the history of the QSR process at

⁷ Child Welfare Policy and Practice Group, Quality Service Review Institute, Montgomery, AL and Tallahassee, FL.

BCDSS; it was developed and implemented both for measurement of compliance with select *L.J.* measures and, more importantly, for overall agency practice assessment and improvement. See, e.g., Attachment 1, IVA Response to Defs.’ 56th Report (filed November 29, 2017), pp. 2-12.

In May 2023, Defendant BCDSS provided the IVA and Plaintiffs’ attorneys with a detailed description of the current process used to conduct the Quality Service Reviews. The QSR process has changed in significant ways from standard QSR practice and the original BCDSS QSR practice described in Attachment 1.⁸ In July 2023, the IVA and Assistant to the IVA resumed attending Inter-Rater Reliability (IRR) sessions, an essential part of the QSR process. The purpose of the IRR is to ensure consistency between reviewers of the ratings chosen from the QSR protocol for each of the QSR indicators.

By the end of 2023, the IVA will provide Defendant BCDSS and Plaintiffs’ attorneys a full assessment of the current QSR process in the areas of fidelity to the QSR model as well as its accuracy, validity and reliability for use in measuring compliance with the applicable *L.J.* measures. To aid in that assessment, the IVA has hired an outside consultant, who is familiar with the BCDSS QSR program since its inception in 2014 and who has multiple years’ experience in QSR and other systems evaluations, to review the QSR program in its current iteration and provide analysis and recommendations. Until this process is completed, the IVA is unable to certify any of the measures relying on QSR data as accurate, valid, and reliable.

3. Other Data Sources

In Defendants’ data summary, all other reports are referred to as originating from “Legal” or “QA.” As with QSR, Defendants do not provide any indication that those reports were validated

⁸ One immediate concern that Defendants should address is the failure to compile and report QSR ratings on all QSR indicators, not just on those specifically required for *L.J.* reporting. QSR is intended to be a practice improvement tool and should not be limited to reporting *L.J.* measures. In addition, reporting of the ratings on all measures is necessary for review of the accuracy and consistency of the ratings used for the *L.J.* measures.

prior to inclusion in Defendants' reports. In the column titled "BCDSS Confirms Report is Accurate," all of those measures except one⁹ are listed as "N/A." However, as set out above at p. 10 and in Section VI., below, a number of those reports do not meet the standards for accuracy, validity, and reliability.

D. Compliance Plans/Strategies for Improvement

Without accurate, valid, and reliable data, it is difficult to address how to improve performance on the MCD measures. However, even without a full set of data, Defendants acknowledge that many of the measures are not compliant with the MCD. Plaintiffs' counsel has urged the development of compliance plans, and the IVA agrees that there is enough information available to the Defendants that they can develop plans to increase compliance rates. The Defendants have responded to the request for compliance plans with "Strategies for Improvement." As discussed in detail in the IVA's Response to Defendants' 68th Report (pp. 39-41), these "strategies" vary in quality, but, as a whole, lack sequential activities, timelines, and compliance percentage goals (e.g., "increase compliance by 10 percentage periods in next reporting period"). Defendants should draft comprehensive compliance plans for the measures with a focus on a selection of prioritized measures that are likely to lead to improved outcomes for children and their families involved with the child welfare system.

V. CRITICAL CHILD WELFARE POLICY AND PRACTICE ISSUES: CASELOADS, KINSHIP CARE, PLACEMENTS AND MENTAL HEALTH

A. Caseloads

One of the most critical issues facing BCDSS continues to be caseloads - they remain unacceptably high.

⁹ The single exception is for Measure 100 (school attendance rate), for which data is provided to BCDSS by the Baltimore City Public School System. For that measure, Defendants report "no" as to confirmation of accuracy.

Under the MCD, OHP caseloads are required to be “15 children (or any lower ratio required by Maryland state law).”¹⁰ In 2006, pursuant to state law, the Child Welfare League of America performed a study (Att. 2) to develop a methodology for calculation of child welfare case-to-worker ratios and determined that, for Maryland, 12 children per one worker was a more appropriate caseload due to the administrative demands placed upon the caseworkers in addition to their responsibilities to the children and families in their caseloads.

Unfortunately, for the last four reporting periods (through June 2023), Defendants have been far from meeting that mark. In fact, as illustrated in the chart below, a majority of the caseworkers have had caseloads above even the 1:15 case level.

Caseload Data as of:	3 - 12 children	13 - 15 children	16 - 24 children
December 31, 2021	24%	26%	50%
June 30, 2022	10%	30%	60%
December 30, 2022	15%	12%	73%
June 30, 2023	21%	14%	65%

In order to attain a compliant average caseload ratio of no more than 12 children per caseworker, the agency needs a total of at least 125 OHP caseworkers - a 40% increase over the 89 OHP caseworkers at BCDSS as of June 30, 2023. Instead, departures have continued to exceed hiring. Between July and December 2022, only 10 OHP caseworkers were hired while another 14 resigned.

¹⁰ MCD, Part Two, Section V., D. 1.

There also is a critical shortage of direct supervisors. Between July and December 2022, no supervisors were hired while 3 had resigned. Still, at least as of the beginning of January 2023, the caseworker to supervisor ratio had improved to the required 5 to 1 ratio. However, this happened only because of the even more dramatic decrease in the number of caseworkers. As the BCDSS Director has noted, in order to hire more caseworkers, more supervisors will be needed.

These high caseloads, caseworker turnover and lack of sufficient direct supervisors impact the children in foster care and their families as well as the caseworkers. Frequent case transfers impair the engagement with children and families needed to assist them in resolving problems and attaining reunification or other forms of permanency on a timely basis. Not only are these increased caseloads a violation of the MCD, but they also make it much more difficult to resolve many of the issues discussed in this report. Defendants recognize their impact on the collection of data critical to producing accurate and reliable reports: “[a]s a result of high caseloads caused by the large number of vacancies in Child Welfare, caseworkers are prioritizing work with children and families over data entry and documentation.” Defs.’ 69th Report, p. 40.

Given the challenges of hiring and retaining staff, Defendants, especially at the state level, urgently need to consider other personnel changes and supports, e.g., requesting additional pay for caseworkers under certain conditions, additional transportation and Family Support Workers who may help overloaded caseworkers better support children and families, and more administrative workers for data entry. Defendants are well aware of the problem and aggressively should be pursuing ways to address it before the problem worsens further.¹¹

¹¹ There are many resources devoted to this topic with examples of the ways that different jurisdictions have worked to ameliorate their staffing problems. See, e.g., HHS Children’s Bureau, Capacity Building Center for States, <https://content.govdelivery.com/accounts/USACFCBCS/bulletins/350030a> (March 23, 2023).

Defendant BCDSS has made efforts to address workforce problems as described in their report (pp. 5-12). However, even with these efforts, caseworkers and supervisors continue to depart the agency, a trend that started before the pandemic and appears to have worsened during and post-pandemic. BCDSS and Maryland are not alone, and many states and child welfare agencies are experiencing similar vacancies and a lack of qualified applicants. We encourage Defendants, both DHS and BCDSS, to conduct a thorough assessment of the issues facing the child welfare workforce. Now may be the time to make significant changes. As stated in a recent Casey Family Programs article,

The COVID-19 pandemic, labor market shifts, a public reckoning with racial injustice, and the current youth mental health crisis have exacerbated workforce challenges. Yet child welfare leaders can use these challenges as an opportunity to rethink services, engage with communities, and create organizational climates that are conducive to effective practice. Agencies are implementing a range of direct strategies to improve recruitment and retention, but high turnover often is a symptom of broader systemic challenges that also need to be acknowledged and addressed.¹²

Other states have conducted assessments to determine where to focus their efforts for the greatest impact. We encourage the Defendants to examine the efforts of other child welfare agencies to address the challenges facing the child welfare workforce. Efforts should go beyond recruitment/retention and onboarding practices. Changes may need to be broader and include other solutions such as job redesign and organizational change. Both the Quality Improvement Center for Workforce Development (QIC-WD)¹³ and the National Child Welfare Workforce Development Institute¹⁴ are good resources for the many ways that other agencies are making or have made changes. The state of New Jersey has been particularly effective at retaining their staff

¹² www.casey.org/turnover-costs-and-retention-strategies/ (August 29, 2023).

¹³ www.qic-wd.org.

¹⁴ www.ncwwi.org.

even in a high demand area.¹⁵ Such efforts will require DHS and BCDSS to work together as changes will need to come at the state as well as the local level.

B. Kinship Care

The IVA's Response to Defendants' 66th, 67th and 68th reports addressed in detail the importance of kinship placements and encouraged Defendants' strengthened efforts to increase the percentage of children and youth in kinship care. (See IVA Resp. to 66th Rep.; pp. 11-14, IVA Resp. to 67th Rep.; pp. 30-33, IVA Resp. to 68th Rep., pp. 17-24).

Kinship care provides greater stability in placement; results in improved well-being as compared to children in non-relative care; limits the trauma of removal and the circumstances that led to removal; maintains sibling and other ties; and results in improved permanency outcomes. Despite being established as a priority of the Defendants in 2019, the rate of kinship care in Baltimore has remained largely unchanged for years. According to the BCDSS August 2023 Child Welfare Trends report, the kin placement rate was at 32% (including trial home visits with parents), a four-percentage point decline from the July through December 2022 (69th Report period) rate of 36%.

BCDSS recognizes the importance of kin placements and has set a goal to place 50% of all children in foster care with kin. The IVA acknowledges the commitment of BCDSS to become a "Kin First" agency and to infuse a kin-focused culture at BCDSS. BCDSS recently shared the following announcement in a staff email dated October 16, 2023: "We have engaged A Second Chance from Pittsburgh - the foremost practitioners of kinship care in the country - to assist us to reach our goals by building a strategic, data-driven kinship care program that is culturally and racially

¹⁵ www.casey.org/new-jersey-staff-turnover/ (February 7, 2022).

competent.” One of the first steps in this partnership is a half-day Kinship Values training for all BCDSS child welfare staff to take place at the end of October.

BCDSS’s partnership with Second Chance is a key starting point. It remains critical to understand why the rate of kinship placement has not increased over time in order to make the necessary changes that will lead to a significantly higher rate. Despite the requirements of the MCD (see Apx. 1, p. 16, OHP Additional Commitment 7), Defendants have not shared an assessment of the needs of kin providers nor detailed plans to achieve such a significant increase in kinship care placements.¹⁶ We acknowledge and commend the BCDSS staff members who have brought the Kin Care Center to fruition - from a website during the pandemic to a brick-and-mortar center that opened to the public in the fall of 2022. We hope to learn more about future plans to recruit and support kin providers through the Kin Care Center as well as through practice and policy changes.

Defendant DHS must play a leadership role in the transformation from the norm of stranger foster care to a new norm of placement with kin as the priority - from prior to the child’s out-of-home placement through permanency - when family reunification is not possible. DHS must consider what barriers exist at the state level for kin placements, whether they are practice or policy barriers, and how these barriers can be addressed. On September 27, 2023, federal regulations were published that allow states to simplify the licensing process for unreimbursed kinship caregivers to become paid foster care providers. 45 CFR Parts 1355 and 1356 (eff. 11/17/23). The new regulations allow different licensing or approval standards for relative or kinship foster family

¹⁶ At the beginning of 2023, BCDSS leadership invited the IVA to attend the Kinship Workgroup. Unfortunately, that invitation was withdrawn in September 2023 after attending only one meeting (February 2023) with the only reason given as “staff were not comfortable meeting with you in attendance.” It should be noted that the IVA regularly meets with many staff members of DSS, as well as multiple committees, including but not limited to the Health Advisory Committee, the Behavioral Health Subcommittee, monthly Child Welfare Leadership meetings, QSR-IRR sessions, and quarterly BCDSS meeting with legal representatives without any noted concerns.

homes and non-relative/non-kinship foster family homes. Going into effect on November 27, 2023, this regulation allows Maryland to take a major step to address the long-problematic issue of licensing of kin providers. Kin caregivers should not be required to go through the same process as non-kin foster parent applicants, often viewed as intrusive to families who have voluntarily stepped up to care for family members, in order to get the support they need.

While kin should not have to be licensed to receive the support they need, there are well known benefits to licensing, including financial benefits and additional support from a Resources and Support worker. BCDSS has set a goal of having 90% of its kin caregivers licensed. Unfortunately, BCDSS has continued to have a low percentage of licensed kin - only 24% as of September 2023.¹⁷ Without a license, kin caregivers receive less monthly financial support, and they are not assigned a Resources and Support worker like other BCDSS licensed foster homes who receive support from both a Resources and Support worker and an OHP caseworker.

Defendants, both State and local, should provide more details in future reports and at future forums as to how they will increase the rate of kin placements, how they will meet the needs of children and youth in kin care, and how they will support the kin who step in to provide care for a family member.

C. Placement Needs and Challenges

The lack of appropriate placements and treatments for children and youth with significant physical and mental health needs, especially when those problems are complicated by developmental disabilities, remains a significant concern. Some of these children have suffered multiple traumas prior to entering foster care and have been further traumatized by instability in the foster care system, having been ejected or run away from multiple placements. They are further

¹⁷Foster Care Milestone Report (September 21, 2023).

traumatized when they are rejected by multiple providers in a system that is supposed to help them, but where no one is willing to accept them when they are most in need.

Due to the lack of available appropriate placements, children have continued to spend multiple nights in BCDSS' office buildings in violation of the MCD, while others continue to be placed in hotels with supervision by one-to-one service providers, an expensive and questionably safe or appropriate practice.¹⁸ Hotels are not approved placements, and, yet, the use of hotels to house children continues due to a lack of available placements, particularly for children and youth with mental health issues, teenagers with a history of running away, and other children with significant physical and developmental disabilities. Other children have spent not just hours but days in hospital emergency rooms waiting for beds in psychiatric units, or placements in group homes, diagnostic centers, or residential treatment centers. Some children are forced to remain in emergency rooms and psychiatric units long past the time they are ready for discharge (“overstays”) due to a lack of available and appropriate placements.¹⁹

Both these office and hotel stays and hospital overstays are a clear violation of the MCD. Children and youth should not be placed in, nor left in, a more restrictive placement than they need. In May 2023, Disability Rights Maryland and other advocates filed suit against DHS and the Maryland Department of Health for their alleged failure to provide a sufficient range and number of services and placements for children with complex behavioral health needs. (*T.G. et al. v. Maryland DHS et al.*, No. 1:23-cv-01433-PJM (U.S.D.C. Maryland, filed May 30, 2023)). While Baltimore City is not a part of this statewide lawsuit because of the

¹⁸ See Att. 3, Baltimore Banner, “Maryland Foster Children are Being Kept Overnight in Hotels and Downtown Office Buildings” (September 15, 2022).

¹⁹ See Att. 4, Baltimore Banner, “Maryland Kids in Distress Are Being Kept in Emergency Departments For Weeks, Months” (August 9, 2022).

ongoing *L.J.* case, the problems alleged to be occurring in all other jurisdictions are also evident in Baltimore City. In June 2023, Plaintiffs requested that the same issues alleged in the lawsuit and already covered by the *L.J.* MCD be addressed through the dispute resolution process as described in the MCD, p. 7. (See Atts. 5 and 6, Pls.' Letters dated June 12 and 26, 2023; Att. 7, Defs.' Response dated July 21, 2023). The ongoing problem of insufficient appropriate placements for many youth in Baltimore City foster care is evidenced by the Overstay and Waitlist Report (weekly), the Children in the [Office] Building Report (daily), and Youth in Hotels (daily) provided by BCDSS to the parties and IVA under the requirements of the MCD.

While BCDSS is responsible for recruiting local non-therapeutic foster families and identifying kin providers, all other types of placements are the responsibility of DHS and their state partners at Maryland Department of Health through state contracts and licensing. Maryland has had information and recommendations for many years that the current placement system needed substantial reformation. Appropriate and high-quality placements must be available to all children and youth who are in foster care at the time they are needed, not many days, weeks or months later. The least restrictive family settings should always be sought first and should include individualized, intensive, wrap-around services to ensure that children and youth can remain in the community and in a family setting either with their parents, kin, or foster parents. Only if their needs cannot be met in a family setting should children be placed in a more restrictive setting. A full range of placements, including therapeutic group homes and residential treatment centers, as well as individualized services that can meet the complex needs of foster children must be available to BCDSS. Defendant DHS has failed to craft and implement appropriate solutions to these long-standing placement problems.

Defendants continue to downplay how widespread the problems of finding appropriate placements are and continue to assert that it is only the older children for whom this is an issue. In fact, DHS data on placement stability for children reveals that of the 303 children ages 0 - 12 who entered foster care in Baltimore City in State Fiscal Year 2023 (July 1, 2022 - June 30, 2023), 86 children, or 28%, had two or more placement moves during that same year.²⁰ The rate is not that much less than for the 13-17 year olds who entered OHP during that year; 37% of those children had two or more placement moves in that year. Because many of these children were in OHP much less than an entire year, a number of those children may, in fact, have had many more placement moves in their first full year in OHP. While chronic instability might primarily be an issue for older youth, BCDSS' younger children clearly are not exempted from the problem.

Maryland has failed to address concerns regarding placement and recruitment of foster parents that may be as a result of the foster care payment rate. 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 an increase in 2022 but do not provide any explanation for why the public foster care board rate was not increased. Defendants note that Maryland "continues to be at the top end of the scale in payments to providers." Defs.' 69th Rep., p. 36. While this may be true (no data or evidence is provided), Maryland is also at the

²⁰ Data compiled from DHS/SSA SY2023 Placement Stability Report, provided to IVA in September 2023.

top end of the scale in cost of living.²¹ Given the current rate of inflation, addressing the lack of increase in foster care payments should be a priority.

D. Mental Health

High quality, culturally responsive mental health care is essential to the well-being of children and youth in foster care. The failure to provide this care exacerbates the placement problems discussed above. Over the past year and a half, BCDSS has been working with Behavioral Health Systems Baltimore (BHSB) to implement a new program for BCDSS to contract directly with mental health providers for services for children and youth. This program is now called the BCDSS Youth Wellness Program. Four vendors were selected to provide services to BCDSS foster children and youth with the expectation of the hiring of five therapists by each vendor for a total of 20 therapists. Each of these therapists were expected to carry a caseload of up to 25 foster youth. BCDSS partnered with Dr. Kyla Liggett-Creel of the University of Maryland School of Social Work (UMSSW) for the creation and implementation of the “Specialized Behavioral Health Services & Foster Care Curriculum” (Behavioral Health Plan, p. 11) that all Wellness Program therapists are to complete. For more information about the BCDSS Youth Wellness Program, see Attachment 8, “BCDSS Youth Wellness Program Frequently Asked Questions” (provided to Plaintiffs and IVA on August 8, 2023).

While it was initially hoped that the Wellness Program would begin accepting referrals in October 2022, the contracted providers experienced (and continue to experience) delays in hiring of qualified therapists to work with BCDSS youth, resulting in referrals not beginning until February 2023. Delays with hiring therapists for the program continued, and as of May 2023, less

²¹ 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>.

than half of the positions created under the program had been filled across all vendors. Training of the first cohort on the new Wellness Program curriculum was delayed due to problems with hiring of the new therapists by the selected vendors. The first cohort of eight (8) therapists completed the Foster Care Curriculum training in July 2023. Again, this is significantly fewer therapists than anticipated under the program. Furthermore, in September of this year, one of the vendors selected to provide therapeutic services under the Wellness Program decided to exit the program. Much is still to be shared by Defendants about the implementation, administration, and assessment of the new program.

In addition, BCDSS has not provided recent information or any data on implementation of the Standard Operating Procedure (SOP) issued in April 2023 to require improved procedures for psychotropic medication decision-making. There continues to be an overall lack of data around the mental health needs of children in BCDSS custody, a frustration frequently voiced by the IVA and Plaintiffs' counsel. Information such as the percentage of children and youth in need of mental health services, percentage of children and youth receiving mental health services, common diagnoses, frequently prescribed medications, and treatment outcomes, is essential to ensuring that services are available to meet the needs of children and their families/caregivers.

VI. DATA TABLE AND IVA CERTIFICATION DISCUSSION

Part Two of the MCD contains five sub-sections: Preservation and Permanency Planning; Out-of-Home Placement; Health Care; Education; and Workforce. Each of these contains Outcomes with Definitions, Internal Success Measures (ISMs), Exit Standards and Additional Commitments. The IVA is responsible for review of Defendants' assertions of compliance and may certify compliance only after determining that the Defendants' reported data, and the measures and methods used to collect and to report that data are accurate, valid, and reliable. (MCD, p. 4).

Defendants request certification for four Exit Standards: Measures 52, 121, 125 and 126. The IVA is able to certify Exit Standards 121, 125 and 126 for the reasons discussed below.

For easier reference, the data table from Defendants' report is included here with both Defendants' statements concerning accuracy and the IVA's determinations of accuracy and decisions on certification.

Notes:

1. The measures in bold type are the Exit Standards.
2. Defs. use "TBD" instead of reporting data where either (1) "The report is still in development" or (2) "The report has been developed but is not accurate."
3. Defs. do not provide any information on a determination of accuracy for any of the measures except those derived from CJAMS data. Instead, they mark that column as "N/A."
4. The IVA discusses the plan for review of QSR processes and data on p. 13, above.
5. For many of the health measures (73 – 94), Defs. report data from eCW, the database used by the MATCH program. As discussed below on p. 51, this data should not have been reported and will not be reproduced in this chart.
6. For measures where Defs. originally reported data that BCDSS Innovations staff later confirmed was not accurate, the IVA asked Defs. if they wished to correct the report, but they declined.

Measure		Data Source	68 th	69 th	Defs. Confirm Report is Accurate	IVA Certification & Notes
See Note 1.			See Notes 2 & 5.	See Notes 2 & 5.	See Notes 3 & 6.	
1	% of children in family preservation that enter OHP.	CJAMS	TBD	TBD	No	No
2	% of children and families in family preservation that timely received services identified in the case plan.	QSR	3%	10%	N/A	Not yet validated. See Note 4.
3a	90 % of children and families in family preservation had a case plan.	CJAMS	TBD	TBD	No	No
3b	90 % of children and families in family preservation had a case plan.	QSR	53%	53%	N/A	Not yet validated. See Note 4.

Measure		Data Source	68 th	69 th	Def's. Confirm Report is Accurate	IVA Certification & Notes
See Note 1.			See Notes 2 & 5.	See Notes 2 & 5.	See Notes 3 & 6.	
4	85 % of children and families in family preservation timely received the services identified in the case plan.	QSR	3%	10%	N/A	Not yet validated. See Note 4.
5	Average length of stay for children in OHP (in months).	CJAMS	34 months	35 months	No, but Defs. reported data taken from milestone report.	Milestone report data likely to be accurate.
6	% of children who had a comprehensive assessment within sixty days of placement.	CJAMS	TBD	TBD	No	No
7	% of all children with a permanency plan of reunification for whom BCDSS had a service agreement with the child's parents or guardians or for whom BCDSS made reasonable efforts to get the child's parents or guardians to enter into a service agreement.	QSR	19%	29%	N/A	Not yet validated. See Note 4.
8	% of all children for whom BCDSS provided referrals for services identified in the child's parent's or guardian's service agreement.	QSR	3%	3%	N/A	Not yet validated. See Note 4.
9	% of cases that had a team decision-making meeting when the child is at risk of a placement disruption.	CJAMS	TBD	TBD	No	No
10	% of TPR petitions filed that were filed on time.	Legal Services	62.22%	56%	N/A	Not accurate. See p. 41.
11	% of children who, after twenty-four months in care, had a case review every ninety days to resolve barriers to permanency.	CJAMS	TBD	TBD	No	No
12	% of all children with a permanency plan of reunification for whom BCDSS facilitated a visit with the child's parents once per week.	CJAMS	TBD	TBD	No	No

#	Measure	Data Source	68 th	69 th	Defs. Confirm Report is Accurate	IVA Certification & Notes
See Note 1.			See Notes 2 & 5.	See Notes 2 & 5.	See Notes 3 & 6.	
13	% of applicable children for whom, where the child's paternity had not been established, BCDSS sought to establish the child's paternity within ninety days of the child's entry into OHP.	Legal Services	100%	100%	N/A	Not accurate. See p. 42.
14	% of children for whom BCDSS searched for relatives or other resources.	QSR	44%	45%	N/A	Not yet validated. See Note 4.
15	90 % of children in OHP had a case plan.	QSR	10%	23%	N/A	Not yet validated. See Note 4.
16	90 % of children in OHP and their families timely received the services identified in their case plans.	QSR	3%	10%	N/A	Not yet validated. See Note 4.
17	% of children ages twelve and over who participated in case planning meetings.	CJAMS	TBD	TBD	No	No
18	% of all new entrants for whom a family involvement meeting was held within seventy-two hours of placement.	CJAMS	TBD	70%	Yes	Yes See p. 43.
19	% of all children for whom case planning meetings included family members.	CJAMS	TBD	TBD	No	No
20	Beginning July 1, 2010, for 85 % of children, BCDSS had a family involvement meeting at each critical decision-making point. [Each of parts 20A-D must reach 85%.]	CJAMS	TBD	TBD	No	No
20A	New entries into OHP for whom an FTM was held 3 days before or after date of entry into OHP	CJAMS	TBD	TBD	No	Yes See Measure 18.
20B	Number of placement changes for which an FTM was held within 45 days prior to the placement change or up to 10 days after	CJAMS	TBD	TBD	No	No

#	Measure	Data Source	68 th	69 th	Defs. Confirm Report is Accurate	IVA Certification & Notes
See Note 1.			See Notes 2 & 5.	See Notes 2 & 5.	See Notes 3 & 6.	
20C	Permanency change: within 90 days prior to a permanency change for a child in OHP.	CJAMS	TBD	TBD	No	No
20D	Transitioning to independence: at least annually for a youth in OHP aged 14 – 20 who has been in OHP for at least 6 months.	CJAMS	TBD	TBD	Yes (sic)	No
21	% of children whose case plan was completed within sixty days of placement.	CJAMS	TBD	TBD	No	No
22	% of children whose case plan was updated every six months.	CJAMS	TBD	TBD	No	No
23	% of children for whom BCDSS reported to the child's parents, the parents' attorney, and the child's attorney any intention to request a change in the permanency plan at least ten days prior to the court review.	Legal Services	80.77%	89.1%	N/A	Insufficient Information to Validate.
24	90 % of children had a case plan that was completed within sixty days of the child's entry into OHP and which was updated every six months.	CJAMS	TBD	TBD	No	No
25a	% of children ages fourteen and over who had a transition plan for independence included in the child's case plan and were timely receiving the services identified in the case plan.	CJAMS	TBD	TBD	No	No
25b	% of children ages fourteen and over who had a transition plan for independence included in the child's case plan and were timely receiving the services identified in the case plan.	QSR	22%	0%	N/A	Not yet validated. See Note 4.
26	% of emancipated youth who reported receiving services prepare them for independence.	CJAMS	TBD	TBD	No	No

#	Measure	Data Source	68 th	69 th	Defs. Confirm Report is Accurate	IVA Certification & Notes
See Note 1.			See Notes 2 & 5.	See Notes 2 & 5.	See Notes 3 & 6.	
27	% of youth with a mental illness or a developmental disability who need a residential facility, residential supports, or day programming or supported employment services after they turn twenty-one who received a referral, and who had a transition plan to an alternative service provider at least two years prior to their twenty-first birthday.	Innovations (QA)	61.54%	67%	N/A	Insufficient information to validate.
28	Number of youth, ages eighteen to twenty-one, who exited OHP through rescission.	Legal Services	7	4	N/A	Not accurate. See p. 44.
29a	90 % of children ages fourteen and over had a transition plan included in the child's case plan and timely received the services identified in the case plan.	CJAMS	TBD	TBD	No	No
29b	90 % of children ages fourteen and over had a transition plan included in the child's case plan and timely received the services identified in the case plan.	QSR	22%	0%	N/A	Not yet validated. See Note 2.
30	% of all children who were placed in:	CJAMS			No, but Defs. reported data taken from milestone report.	Milestone report data likely to be accurate.
	(a) Family Settings		TBD	39%		
	(b) Relatives		TBD	36%		
	© Congregate Care		TBD	8%		
	(d) Other setting		TBD	8%		
	(e) Independent Living		TBD	9%		
31	% of all children in OHP placed with siblings.	CJAMS	TBD	42%	No	Not accurate. See p. 45.
32	% of all children in congregate care who had a step-down plan.	CJAMS	TBD	TBD	No	No

#	Measure	Data Source	68 th	69 th	Defs. Confirm Report is Accurate	IVA Certification & Notes
See Note 1.			See Notes 2 & 5.	See Notes 2 & 5.	See Notes 3 & 6.	
33	90 % of all children were placed promptly in the least restrictive and appropriate placement based on their individualized needs.	QSR	87%	80%	N/A	Not yet validated. See Note 4.
34	Number of children placed in congregate care by age groups	CJAMS			No, but Defs. reported data taken from hand count.	Hand count data likely to be accurate.
	(a) Children under seven placed in congregate care		TBD	2		
	(b) Children seven to twelve placed in congregate care		TBD	21		
35	% of children under age thirteen placed in congregate care for whom the placement was medically or therapeutically necessary and the placement included services that met the child's needs.	CJAMS	TBD	TBD	No	No
36	For 99% of children under age thirteen placed in congregate care, the placement was medically or therapeutically necessary and the placement included services that met the child's needs.	CJAMS	TBD	TBD	No	No
37	Number of placements available to BCDSS by type.	CJAMS	TBD	TBD	No	No
38	Number of emergency foster homes on retainer and the number of beds available in each home.	CJAMS	TBD	TBD	No	No
39	The array of current placements matched the recommendation of the biennial needs assessment.	TBD	Please see Att. 1.	TBD	No	No See p. 45.
40	% of all children who have service needs identified in their case plans.	QSR	10%	23%	N/A	Not yet validated. See Note 4.
41	% of all children for whom identified service needs were followed by timely and appropriate referrals.	QSR	3%	3%	N/A	Not yet validated. See Note 4.

#	Measure	Data Source	68 th	69 th	Defs. Confirm Report is Accurate	IVA Certification & Notes
See Note 1.						
			See Notes 2 & 5.	See Notes 2 & 5.	See Notes 3 & 6.	
42	% of children who receive services necessary and sufficient to meet the child's needs and to support stability in the least restrictive placement.	QSR	60%	50%	N/A	Not yet validated. See Note 4.
43	% of children not placed with their siblings who have visitation with their siblings twice a month.	CJAMS	TBD	TBD	No	No
44	90 % of children and caregivers received services necessary and sufficient to meet their needs and to support stability in the least restrictive placement.	QSR	60%	50%	N/A	Not yet validated. See Note 4.
45	% of kinship care providers who received written notification of the right to apply for foster home licensing within ten days of placement.	CJAMS	TBD	TBD	No	No
46	% of kinship care providers who received written notification of BCDSS training opportunities.	Innovations (QA)	68.12%	69%	No	Not accurate. See p. 45.
47	% of kinship care providers who reported having been informed about training and licensing opportunities.	Innovations (QA)	82.97%	83.41%	No	Not accurate. See p. 46.
48	90 % of kinship care providers received written notification of the right to apply for foster home licensing within ten days of placement.	CJAMS	TBD	TBD	No	No
49	# of Special Support team positions funded by the Department, by type.	Innovations (QA)	14	13 (some vacated; others reorganized)	N/A	No Total is actually 12.
50	# of Special Support team positions filled, by type.					
	Education		5	5		
	Employment		1	1		
	Housing					
	Housing and Employment		1	1		
	Independent Living		1	1		
	RB 21 Specialist – SOAR/SSI		1	1		

#	Measure	Data Source	68 th	69 th	Defs. Confirm Report is Accurate	IVA Certification & Notes
See Note 1.			See Notes 2 & 5.	See Notes 2 & 5.	See Notes 3 & 6.	
50 cont'd	Developmental Disabilities		1	1		
	Substance Use Disorder		1	1		
	Mental Health Navigator		3	1		
51	MCDSS MS-100 (job descriptions for all positions).	Innovations (QA)	All	All	N/A	Yes
52	BCDSS employed a staff of non-case carrying specialists to provide technical assistance to caseworkers and supervisors for cases that require specialized experience and/or knowledge.	Innovations (QA)	Yes, for each month January to June 2022	Yes, for each month July to December 2022	N/A	No See p. 47.
53	% of all foster home applications that were approved/denied within 120 days of application.	CJAMS	TBD	TBD	No	No
54	% of all foster home caregivers who received all training required by law.	CJAMS	TBD	TBD	No	No
55	Number of foster homes licenses rescinded by the Department due to lack of compliance.	CJAMS	TBD	TBD	No	No
56	% of all foster homes and kinship care placements that met the COMAR licensing requirements.	CJAMS	TBD	TBD	No	No
57	95 % of all foster homes and kinship care placements met all legal requirements.	CJAMS	TBD	TBD	No	No
58	90 % of all foster homes were approved and reapproved on a timely basis.	CJAMS	TBD	TBD	No	No
59	% of all placements in which the caregivers received a complete Child Placement Information Form at the time of placement.	CJAMS	TBD	TBD	No	No
60	95 % of caregivers had been provided all available information about the child's status, background, and needs.	CJAMS	TBD	TBD	No	No

#	Measure	Data Source	68 th	69 th	Defs. Confirm Report is Accurate	IVA Certification & Notes
See Note 1.						
61	Number of children in OHP for whom a CPS report was made.	CJAMS	TBD	36	No, but Defs. reported data taken from hand count.	Insufficient information to validate.
62	Number of children in OHP for whom a CPS investigation was opened.	CJAMS	TBD	36	No, but Defs. reported data taken from hand count.	Insufficient information to validate.
63	Number of children in OHP for whom a report of maltreatment while in OHP was indicated.	CJAMS	TBD	1	No, but Defs. reported data taken from hand count.	Insufficient information to validate.
64	% of CPS investigations which were initiated in a timely manner.	CJAMS	TBD	TBD	No	No
65	99.68 % of children in OHP were not maltreated in their placement.	CJAMS	TBD	TBD	No	No
66	In 95 % of cases of alleged maltreatment of a child in OHP, BCDSS provided the child's attorney and Plaintiffs' counsel the report of the alleged maltreatment within five days of the report and the disposition within five days of its completion.	Legal Services	Part A – 82.35% Part B – 0%	Part A – 88.89% Part B – 3.7%	N/A	Insufficient information to validate.
67	Number of children who spend four hours or more in an office, motel, or unlicensed facility.	Innovations (QA)	56 Children 196 incidents	39 Children 180 incidents	N/A	Not accurate. See p. 49.
68	99.8 % of children in OHP were not housed outside regular business hours in an office, motel, hotel or other unlicensed facility. If any child is so housed, BCDSS shall notify Pls.' counsel within one working day of the reasons for the placement, the name of the child's CINA attorney and the steps that BCDSS is taking to find an appropriate placement. Barring extraordinary circumstances, no child may be housed in an office for consecutive nights.	Innovations (QA)	Part 1 – 97.26% Part 2 (timely notice) 54.6%	Part 1 – 97.4% Part 2 (timely notice) 72.2%	N/A	Part 1 - Not accurate. See Measure 67. Part 2 – Insufficient information to validate.

#	Measure	Data Source	68 th	69 th	Defs. Confirm Report is Accurate	IVA Certification & Notes
See Note 1.			See Notes 2 & 5.	See Notes 2 & 5.	See Notes 3 & 6.	
69	% of children ages twelve and over who participated in placement decisions.	CJAMS	TBD	TBD	No	No
70	90 % of children ages twelve or over participated in placement decisions.	CJAMS	TBD	TBD	No	No
71a	% of children who had documented visits from their caseworker once monthly in the child's placement.	CJAMS	95.8% 95% 97.1% 96.5% 94.7% 94.4%	94.3% 95.9% 95.6% 94.7% 96.2% 96.2%	Yes	See discussion, p. 49
71b	% of children who had documented visits from their caseworker once monthly in the child's placement.	QSR	70%	77%	N/A	Not yet validated. See Note 4.
72a	95 % of children had documented visits from their caseworker once monthly in the child's placement.	CJAMS	95.8% 95% 97.1% 96.5% 94.7% 94.4%	94.3% 95.9% 95.6% 94.7% 96.2% 96.2%	Yes	See discussion, p. 49.
72b	95 % of children had documented visits from their caseworker once monthly in the child's placement.	QSR	70%	77%	N/A	Not yet validated. See Note 4.
73	% of new entrants who received an initial health screen within five days of placement.	CJAMS	87.45%	TBD	No	No
74	% of cases in which children received appropriate follow-up when the initial health screen indicated the need for immediate medical attention.	CJAMS	100%	TBD	No	No
75	Beginning July 1, 2009, 95 % of new entrants to OHP received an initial health screen within five days of placement.	CJAMS	87.45%	TBD	No	No
76	% of new entrants that received a comprehensive health assessment within sixty days of placement.	CJAMS	62.4%	TBD	No	No
77	% of all children that had a comprehensive health plan.	CJAMS	82.5%	TBD	No	No

#	Measure	Data Source	68 th	69 th	Defs. Confirm Report is Accurate	IVA Certification & Notes
See Note 1.						
			See Notes 2 & 5.	See Notes 2 & 5.	See Notes 3 & 6.	
78	% of children whose case plan team meeting included a discussion of the child's comprehensive health assessment.	CJAMS	TBD	TBD	No	No
79	Beginning July 1, 2009, 90 % of new entrants into OHP received a comprehensive health assessment within sixty days of placement.	CJAMS	62.4%	TBD	No	No
80	% of children entering OHP who received timely periodic EPSDT examinations, and all other appropriate preventive health assessments and examinations, including examinations and care targeted for adolescents and teen parents.	CJAMS	51.23%	75.56%	Yes	Not accurate. Reviewed with BCDSS staff who agreed report is not accurate.
81	% of children in OHP who received timely periodic EPSDT examinations, and all other appropriate preventive health assessments and examinations, including examinations and care targeted for adolescents and teen parents.	CJAMS	TBD	TBD	N/A	No
82	90 % of children entering OHP received timely periodic EPSDT examinations and all other appropriate preventive health assessments and examinations, including examinations and care targeted for adolescents and teen parents.	CJAMS	51.23%	75.56%	Yes	Not accurate. Reviewed with BCDSS staff who agreed report is not accurate.
83	90 % of children in OHP received timely periodic EPSDT examinations, and all other appropriate preventive health assessments and examinations, including examinations and care targeted for adolescents and teen parents.	CJAMS	TBD	TBD	N/A	No

#	Measure	Data Source	68 th	69 th	Defs. Confirm Report is Accurate	IVA Certification & Notes
See Note 1.						
			See Notes 2 & 5.	See Notes 2 & 5.	See Notes 3 & 6.	
84	Beginning July 1, 2009, % of new entrants under age three who were referred for a Part C Assessment within ten days of placement.	CJAMS	100%	85%	Yes	Reviewed with BCDSS staff who agreed report is not accurate.
85a	% of children who received timely all Needed Health Care Services.	CJAMS	16.38%	TBD	No	No
85b	% of children who received timely all Needed Health Care Services.	QSR	80%	70%	N/A	Not yet validated. See Note 4.
86	% of cases in which the identification of a developmental delay was followed by a prompt referral for special education or early intervention services.	QSR	69%	88%	N/A	Not yet validated. See Note 4.
87	% of cases in which the case worker monitored the child's health status once monthly.	QSR	57%	60%	N/A	Not yet validated. See Note 4.
88a	90 % of children received timely all Needed Health Care Services.	CJAMS	16.38%	TBD	No	No
88b	90 % of children received timely all Needed Health Care Services.	QSR	80%	70%	N/A	Not yet validated. See Note 4.
89	% of all new entrants who had a complete health passport and MA number that were distributed to caregivers promptly.	CJAMS	TBD	TBD	No	No
90	% of children who had a health passport that was updated and distributed to caregivers at least annually.	CJAMS	TBD	TBD	No	No
91	% of children for whom BCDSS requested an MA card promptly when a replacement was needed.	CJAMS	95.16%	TBD	No	No
92	% of all children for whom BCDSS delivered an MA card promptly.	CJAMS	TBD	TBD	No	No
93	90 % of all new entrants had a complete health passport that was distributed to the children's caregivers promptly.	CJAMS	TBD	TBD	No	No

#	Measure	Data Source	68 th	69 th	Defs. Confirm Report is Accurate	IVA Certification & Notes
See Note 1.			See Notes 2 & 5.	See Notes 2 & 5.	See Notes 3 & 6.	
94	90 % of children had a health passport that was updated and distributed to the children's caregivers at least annually.	CJAMS	TBD	TBD	No	No
95	% of new entrants who were enrolled in and began to attend school within five days of placement.	CJAMS	TBD	69.61%	Yes	No See p. 52.
96	% of children who changed placement who were enrolled in school within five days of a placement change	CJAMS	TBD	TBD	No	No See p. 52.
97	% of children eligible for special education who received those services without interruption when they transferred schools.	QSR	100%	100%	N/A	No See p. 53.
98	% of children ages three to five who were enrolled in a pre-school program.	CJAMS	TBD	14.3%	Yes	Not accurate. Reviewed with BCDSS staff who agreed report is not accurate.
99	90 % of children were enrolled in and began to attend school within five days of placement in OHP or change in placement.	CJAMS	TBD	TBD	No	No See p. 52.
100	% of children who had an attendance rate of 85 % or higher in the Baltimore City Public School System.	Innovations (QA)	47%	57.4%	No	No
101	% of children who had an educational plan.	QSR	33%	67%	N/A	Not yet validated. See Note 4.
102	% of children for whom BCDSS met its obligations as set forth in the child's educational plan.	QSR	91%	91%	N/A	Not yet validated. See Note 4.
103	% of children whose educational progress was monitored monthly.	QSR	54%	21%	N/A	Not yet validated. See Note 4.
104	90 % of children had an educational plan.	QSR	33%	67%	N/A	Not yet validated. See Note 4.

#	Measure	Data Source	68 th	69 th	Defs. Confirm Report is Accurate	IVA Certification & Notes
See Note 1.			See Notes 2 & 5.	See Notes 2 & 5.	See Notes 3 & 6.	
105	For 90 % of children, BCDSS had met its obligations as set forth in the child's educational plan.	QSR	91%	91%	N/A	Not yet validated. See Note 4.
106	For 90 % of children, BCDSS had monitored the child's educational progress monthly.	QSR	54%	21%	N/A	Not yet validated. See Note 4.
107	% of children for whom any indication of developmental delay or disability was followed by a prompt referral for special education or early intervention services.	QSR	69%	88%	N/A	Not yet validated. See Note 4.
108	% of children in special education or early intervention for whom the provider or case worker attended the IEP meeting.	QSR	100%	77%	N/A	Not yet validated. See Note 4.
109	% of children eligible for special ed. or early intervention services for whom BCDSS made reasonable efforts to secure services.	QSR	69%	88%	N/A	Not yet validated. See Note 4.
110	BCDSS made a prompt referral for special education or early intervention services for 90 % of children for whom there was an indication of developmental delay or disability.	QSR	69%	88%	N/A	Not yet validated. See Note 4.
111	BCDSS made reasonable efforts to secure services for 90 % of children who were eligible for special education or early intervention services.	QSR	69%	88%	N/A	Not yet validated. See Note 4.
112	% of case-carrying (full-time and with full-caseloads) staff who were at or below the standard for caseload ratios.	CJAMS	TBD	TBD	No	No
113	% of case-carrying teams who were at or below the standard for ratio of supervisor: worker.	CJAMS	TBD	TBD	No	No

#	Measure	Data Source	68 th	69 th	Defs. Confirm Report is Accurate	IVA Certification & Notes
See Note 1.			See Notes 2 & 5.	See Notes 2 & 5.	See Notes 3 & 6.	
114	% of children entering OHP beginning July 1, 2009 whose siblings had the same caseworker.	CJAMS	TBD	67.7%	Yes	Not accurate. Reviewed with BCDSS staff who agreed report is not accurate.
115	90 % of case-carrying staff was at or below the standard for caseload ratios.	CJAMS	TBD	TBD	No	No
116	90 % of case-carrying teams were at or below the standard for ratio of supervisor: worker.	CJAMS	TBD	TBD	No	No
117	% of caseworkers who qualified for the title under Maryland State Law.	Innovations (QA)	100%	95.83%	N/A	Yes See p. 54.
118	% of case-carrying workers who passed their competency exams prior to being assigned a case.	Innovations (QA)	100%	95.83%	N/A	Yes See p. 55.
119	% of caseworkers and supervisors who had twenty hours of training annually.	Innovations (QA)	60.63%	78%	N/A	Insufficient information to validate.
120	% of caseworkers who reported receiving adequate supervision and training.	Innovations (QA)	60.63%	78%	N/A	Insufficient information to validate.
121	95 % of caseworkers met the qualifications for their position under Maryland State Law.	Innovations (QA)	100%	95.83%	N/A	Yes See p. 55.
122	90 % of caseworkers and supervisors had at least twenty hours of training annually.	Innovations (QA)	60.63%	78%	N/A	Insufficient information to validate.
123	% of cases transferred with required documentation within five working days.	Innovations (QA)	84.78%	96.54%	N/A	See Measure 125.
124	% of transferred cases in which case conference held within ten days of transfer.	Innovations (QA)	84.78%	96.54%	N/A	See Measure 126.
125	90% of cases were transferred with required documentation within 5 working days.	Innovations (QA)	84.78%	96.54%	N/A	Certified as accurate at 95.47%. See p. 57.
126	90 % of transferred cases had a case transfer conference within 10 days of the transfer.	Innovations (QA)	84.78%	96.54%	N/A	Certified as accurate at 95.47%. See p. 57.

A. Measures Certification Discussion

“Certification” of individual measures involves a combination of (1) determining if the measure instruction for preparing and extracting the reported data meets the requirements of the MCD, (2) validation of the way the reported data was obtained and the reported data itself to determine if what is reported as the level of compliance is accurate, valid, and reliable; and (3) for Exit Standards only, determination if the validated compliance level meets the MCD requirements. As to the first requirement, the parties and IVA in 2021 agreed upon the measure instructions for each measure; therefore, that finding need not be repeated below. The IVA reviews each substantive section of the MCD below.

1. Preservation and Permanency Planning

The Preservation and Permanency Planning section of the MCD includes five Outcomes containing a total of 7 Exit Standards and 22 Internal Success Measures (ISMs). Defendants do not claim compliance with any of the seven Exit Standards in this section. Fifteen measures are reported as “TBD”: Measures 3a, 20, 24, 29a (Exit Standards) and Measures 1, 6, 9, 11, 12, 17, 19, 21, 22, 25a, and 26 (ISMs).

Although the Defendants are not seeking certification of any measures for this section of the MCD, the IVA has selected four measures for discussion following an analysis of their accuracy of the selected measures.

Internal Success Measure 10: *Percent of TPR petitions filed that were filed on time.*

Defs.' Report: 56%. (Data Source: BCDSS Legal Services Report)

IVA Response: The report is not accurate for the following reasons:

1. For 7 of the 30 cases filed during the reporting period, the date of change of plan to adoption and/or the circumstances of the change of plan to adoption (court ordered - agreement; court ordered - objection; not court ordered) was incorrect.
2. The calculation of the “days to filing” was incorrect. Instead of calculating the number of days between the change of plan and the filing of the TPR, the formula used in the report calculated the number of days between the “date received at legal” and the filing of the TPR.
3. When the correct dates, circumstances of plan change and calculation of time required for filing are corrected, the actual percentage of compliant cases is 46.67%.

Internal Success Measure 13: *Percent of applicable children for whom, where the child’s paternity had not been established, BCDSS sought to establish the child’s paternity within ninety days of the child’s entry into OHP.*

Defs.’ Report: 100% (Data Source: BCDSS Legal Services spreadsheet)

IVA Response: The report is not accurate, valid, and reliable. The spreadsheet provided in support of the Defs.’ Report shows that Defendants are not following the requirements of the measure instruction. Following the requirements of the measure instruction results in 0% compliance.

The measure instruction requires that:

“Parentage has been established at the time of entry in OHP means” that at the time of the filing of the CINA petition there is an identified legal or presumptive second parent as defined by Maryland law. BCDSS is prohibited from seeking to rebut the parentage provided for in Maryland law.

“Sought to establish paternity” means, for the first 90 days that a child is in OHP, BCDSS has inquired as to the identity and location of the child’s second parent as follows:

(a) Made a reasonable effort to review Maryland (and if appropriate, out-of-state) court databases that are available;

- (b) Inquired of an identified parent of the child, if available, to identify the other parent of the child and any other information that could assist in locating the other parent
- (c) Complied with Cts. & Jud. Proc. § 3-822 to assist the juvenile court identify and locate each parent;
- (d) If a parent is unable or unwilling to identify the other parent, inquired of relatives and, if clinically appropriate, the child, if they knew the identity and location of the other parent; and
- (e) If location of a parent is unknown, searched Accurant or other appropriate location search engines.

Defendants must exhaust all five steps if necessary during the initial 90-day period. Yet, the spreadsheet provided in support of Defendants' report of 100% compliance shows that (1) there were only 8 children who did not have two parents identified at the time of the shelter care hearing; (2) the "missing" second parent was not identified as of the time that the spreadsheet had been completed; and (3) for none of the missing second parent did DSS take all five steps set out in the measure instructions.

Internal Success Measure 18: *Percent of all new entrants for whom a family involvement meeting was held within seventy-two hours of placement.*

Defs.' Report: 70% (Data Source: CJAMS Report)

IVA Response: The report is accurate, valid, and reliable.

BCDSS has made significant progress with Family Team Decision Making Meetings (FTDMs) when a child is at risk of removal from their family. These FTDMs are a vital tool in preventing removal or identifying possible kin placements. Even short stays in foster care are traumatizing to children. "Considered Removal" FTDMs should occur between three days prior to removal to (if removal is not avoided) three days after. The work of improving timely FTDMs can be attributed to combined efforts of BCDSS CPS and Family Preservation staff, FTDM staff and Innovations staff who work closely together to ensure they occur timely and are reported accurately

in CJAMS. The data that is not currently available is the number of children who avoided removal when an FTDM occurred. In order to capture this critical outcome data, small, but long overdue changes need to be made to the DHS CJAMS application interface.

Internal Success Measure 28: *Number of youth, ages eighteen to twenty-one, who exited OHP through rescission.*

Defendants' Report: 4 youth (Data Source: BCDSS Legal Services Report)

IVA Response: The Defendants' Report is not accurate. For the four youth who are reported to have exited care through rescission, the IVA reviewed the individual cases in the Quest court data system. The cases reported appear to have met the agreed-upon criteria and procedures. However, the IVA, through review of the Foster Care Milestone Exit data, found one additional case which should have been reported: commitment was rescinded for an 18-year-old youth when she was returned to the care of her mother under an OPS on 8/12/22. This case falls into the category of cases which Defendants are required to report. Defendants need to establish a process (such as the one used by the IVA) to verify this report as accurate before submitting the data in their report.

2. Out-of-Home Placement

The OHP section of the MCD includes twelve Outcomes containing a total of 14 Exit Standards and 29 Internal Success Measures. Twenty-one measures are reported as "TBD": Measures 36, 48, 57, 58, 60, 65, 70 (Exit Standards) and Measures 32, 35, 37, 38, 39, 43, 45, 53, 54, 55, 56, 59, 64, 69 (ISMs). Defendants claim compliance and request certification of one Exit Standard, Measure 52. The certification decision for this Exit Standard and related Internal Success Measures (49, 50, 51) is discussed below. A brief discussion of seven additional measures (31, 39, 46, 47, 67, 71, 72) is included as well.

Internal Success Measure 31: *Percent of all children in OHP placed with siblings.*

Defs.' Report: 42% (Data Source: CJAMS Report)

IVA Response: The report is not accurate. When the IVA reviewed the report with BCDSS staff, it was agreed that the report was defective in that it only required that a sibling be placed with one other sibling to be counted as compliant. The measure instructions require that all siblings are placed together for any child to be counted as “placed with siblings.”

Exit Standard 39: *The array of current placements matched the recommendation of the biennial needs assessment.*

Defs.' Report: TBD.

IVA Response: Defendants have not provided the narrative report required by the measure instructions. In addition, as discussed in the IVA’s Response to the Additional Commitments (Apx. 1, p. 9), the Biennial Needs Assessment that Defendants completed (through a contract with the University of Maryland School of Social Work) did not meet the requirements of the MCD. Without an acceptable biennial needs assessment, the Defendants cannot be in compliance with this Exit Standard.

Internal Success Measure 46: *Percent of kinship care providers who received written notification of BCDSS training opportunities.*

Defs.' Report: 69% (Data Source: BCDSS QA Report)

IVA Response: Defendants did not follow the measure instructions for this measure:

1. The measure instructions require that “kinship care providers” include both formal kin placements and relative living arrangements. The 69th Report includes only formal kin providers.

2. The measure instructions require that the source of data be a report of the names of the kinship providers to whom the notices of BCDSS training opportunities were mailed. The 69th Report uses answers from the kinship caregiver survey (see Measure 47) as the source of data.

Internal Success Measure 47: *Percent of kinship care providers who reported having been informed about training and licensing opportunities.*

Defs.' Report: 83.41% (Data Source: BCDSS QA Report)

IVA Response: Defendants did not follow the measure instructions for this measure:

1. The measure instructions require that “kinship care providers” include both formal kin placements and relative living arrangements. The 69th Report includes only formal kin providers.
2. The measure instructions require that a respondent to the kin survey answer one of the following three questions “yes” for the respondent’s answer to be included as compliant:
 1. Did you know that you can go to free training and that you can apply to become a fully approved Foster Parent and receive foster care funds?
 2. Did you receive a mailing in the last three months from BCDSS about opportunities for free training and approval as a foster parent?
 3. Has a BCDSS worker talked to you about the free training and about how to become a foster parent?

In redesigning the survey, Defendants divided the first question into two questions for clarity. While there is no problem with that change, the calculation of compliance should then require that both of those questions be answered “yes” for the respondent’s answer to be included as compliant. Instead, answering either of those questions “yes” allowed the respondent to be included as compliant.

Internal Success Measure 49: *Number of Special Support team positions funded by the Department, by type.*

Defs.' Report: 13 specialists (Data Source: BCDSS QA report)

Internal Success Measure 50: *Number of Special Support positions filled, by type.*

Defs.' Report:

Education: 5; Employment: 1; Housing and Employment: 1; Independent Living Coordinator: 1; Ready by 21/SOAR/SSI: 1; Developmental Disabilities: 1; Substance Abuse Disorder: 1; Mental Health Navigator: 1

Internal Success Measure 51: *MCDSS MS-100 (job descriptions for all positions)*

Defs.' Report: Posted MS-22 (job description). (The parties have agreed that the correct state form for job descriptions is the MS-22, not the MS-100. Defendants have agreed to submit an MS-22 or resume (for non-agency specialists) for each position instead.)

Education: 6; Employment: 1; Housing and Employment: 1; Independent Living Coordinator: 1; Ready by 21/SOAR/SSI: 1; Developmental Disabilities: 1; Substance Abuse Disorder: 1; Mental Health Navigator

Exit Standard 52: *BCDSS employed a staff of non-case carrying specialists to provide technical assistance to caseworkers and supervisors for cases that require specialized experience and/or knowledge.*

Defs.' Report: “Yes for each month July to December 2022.” (Data Source: Compilation of BCDSS QA reports)

IVA Response: Defendants’ data appears to be accurate, valid, and reliable for Measures 49-52. However, Defendants have not met the substantive requirements of this measure.

As shared in the IVA's 68th Report, the IVA staff met with Innovations staff in December 2022 to discuss this measure and how compliance could be demonstrated. The IVA reiterated the need to follow the requirements of the measure instructions for Measures 49 - 52 and clarified what is necessary for certification. (IVA 68th Report, pp. 46-48).

For the 69th reporting period, Defendants have specialists in the following areas: substance abuse services; mental health services; developmental disabilities; independent living; housing; and education services, including special education. Defendants have also chosen to designate additional specialists in other areas, but these five areas are the minimum required by the MCD. A link to the full list of specialists, along with their contact information, is provided in the "Ask the Experts" section of the Friday Focus email newsletter sent to all child welfare staff.

The IVA has reviewed the data provided including the list of experts, their dates of employment and non-case carrying status. However, the IVA is still unable to certify the measure as compliant due to an issue that has been raised repeatedly in prior IVA reports and discussed with the Defendants. That issue is the crucial need for these designated specialists to be available to caseworkers to discuss not only children's needs but also the needs of their parents and caregivers. As the IVA has raised in past reports, it is unclear from the reported data whether any of the specialists provide badly needed technical assistance to caseworkers to help families and caregivers, not just children in OHP. For example, all of the housing and employment specialists are housed within the Ready by 21 units and their job descriptions do not address providing assistance to caseworkers working with biological parents or kin providers. Additionally, the Mental Health Navigator description in the Ask the Expert flier does not include any referrals for parents or caregivers.

Internal Success Measure 67: *Number of children who spent four hours or more in an office, motel, or unlicensed facility.*

Defs.' Report: Defendants report 39 children and 180 incidences (Data Source: BCDSS QA Report)

IVA Response: Defs.' Report is not accurate, valid, and reliable. Among other problems, Defendants do not include in the report any of the stays in motels/hotels by youth during the reporting period. Under the requirements of the MCD and its measure instruction, hotel stays also should be reported on a daily basis and included in the total count. The only information provided by Defendants about the hotel stays was through the weekly "Overstay/Waiting List" distributed to *L.J.* plaintiffs' counsel and the IVA. Defendants did not begin to report daily on children staying in hotels until May 2023.

Given the number of incidences reported, it is clear that some children are spending multiple nights in office buildings. Some of these are the same children who have spent multiple nights in hotels. While the data for this measure trends down from the 68th reporting period, these numbers still remain much too high and indicate a need for more placements for those youth with complex trauma history and mental health needs who most often experience overstays. (See discussion at p. 21, above.)

Exit Standard 72 (Internal Success Measure 71): *95% of children had documented visits from their caseworker once monthly in the child's placement.*

Exit Standard 72 is comprised of two parts:

72a measures quantitative compliance based upon data entry into CJAMS that a child was visited in the child's residence each month.

72b measures qualitative compliance through the QSR process that the visit met the substantive requirements of the MCD, p. 26:

- (1) A “visit” means an assessment of:
 - (a) the quality of care provided to the child;
 - (b) the child’s adjustment to the OHP, the supervising adults, any other individuals in the OHP, and school; and
 - (c) the appropriateness and success of the placement and the adequacy of services provided to meet the child’s needs and the ability of the child’s caregiver to meet the child’s needs.
- (2) The visit should be of sufficient duration and privacy to make the required assessments.
- (3) The caseworker must indicate the date and summarize the results of each visit in the child’s case record.

Compliance with this Exit Standard cannot be achieved until the results for both parts 72a and 72b reach 95%. In addition, under the agreed-upon measure instructions, Defendants must reach 95% compliance for 72a for each month of the six-month reporting period.

Exit Standard 72a (Internal Success Measure 71a)

Defs.’ Report: July 94.3%; Aug 95.9%; Sep 95.6%; Oct 94.7%; Nov 96.2%; Dec 96.2% (Average 94.5%) (Data Source: CJAMS)

IVA’s Response: Despite high caseloads, Defendant BCDSS has improved its compliance significantly on this critical requirement. Innovations staff tracks caseworker visits on an ongoing basis and shares the results weekly with supervisory staff to ensure that they can monitor compliance for the caseworkers under their supervision.

Exit Standard 72b (Internal Success Measure 71b):

Defs.’ Report: 77%. (Data Source: QSR)

IVA Response: Validation of the reported results from QSR await further assessment of the current QSR program. (See discussion above at p.13.)

3. Health Care

The Health Care section of the MCD includes five Outcomes containing 7 Exit Standards and 15 Internal Success Measures. Defendants do not claim compliance with any of the Exit Standards. Seventeen measures are reported as “TBD”: Measures 79, 83, 85a, 88a, 93, and 94 (Exit Standards) and Measures 73, 74, 75, 76, 77, 78, 81, 89, 90, 91, and 92 (ISMs).

For many of these measures, the CJAMS reports have been developed but are inaccurate and, therefore, the compliance rates for these measures is reported as “TBD” from CJAMS. However, for many of these “TBD” measures, the Defendants still report data from eClinicalWorks (eCW), the medical database adapted by MATCH for its own use in recording health information for the children in BCDSS foster care. DSS staff do not have access to eCW. For the reasons discussed in the IVA’s Resp. to the 68th Report at p. 50, Defendants should not present MATCH eCW data as an alternative to CJAMS data. CJAMS is the only system of record for BCDSS child welfare. The IVA requests again that in future reports only CJAMS data be presented.²²

The only measures for which CJAMS data is provided are Measures 80/82 and 84. Although Defendants originally stated that these reports were accurate, the IVA reviewed the reports with BCDSS Innovations data analysts, and there was agreement that the reported data was not accurate.

²² When they do request IVA certification for Exit Standards 79 (comprehensive health assessment), 82 (medical, dental and mental health exams provided in the first 60 days after entry into foster care), 83 (periodic and annual medical (EPSDT) and dental exams), 88 (all health care needs met), and 94 (annual passport/health plan), Defendants will need to attach to their compliance reports the qualitative assessment required in the measure instructions. MATCH is required to contract with a health care management professional to provide those qualitative assessments twice a year (for each six-month reporting period).

4. Education

The Education section of the MCD includes three outcomes containing 6 Exit Standards and 11 Internal Success Measures. Defendants do not claim compliance with any of the Exit Standards. Two measures are reported as “TBD”: Measure 99 (Exit Standard) and Measure 96 (ISM). Compliance rates for Measures 95, 98 and 100 (ISMs) are reported, but Defendants subsequently have acknowledged that those reports are, in fact, not accurate.

The rest of the measures in the Education section of the MCD rely on qualitative data gathered through the QSR program: Measures 104, 105, 106, 110, and 111 (Exit Standards) and 97, 101, 102, 103, 107, 108 and 109 (ISMs). Whether or not all of these measures are best assessed through QSR needs to be re-evaluated in light of the enhanced education section in CJAMS, the requirements of the MCD and the structure of the education practice at BCDSS. As discussed above on p. 13, the IVA is in the process of an intensive review of the BCDSS QSR process and will address these issues, among others, in the report of the results of that review.

Specific concerns with Measures 95, 96 and 99 and with Measure 97 are discussed below.

Internal Success Measure 95: *Percent of new entrants who were enrolled in and began to attend school within five days of placement.*

Defs.’ Report: 69.61% (Data Source: CJAMS Report)

Internal Success Measure 96: *Percent of children who changed placement who were enrolled in school within five days of a placement change.*

Defs.’ Report: TBD

Exit Standard 99: *90% of children were enrolled in and began to attend school within five days of entry into OHP or change in placement.*

Defs.’ Report: TBD

IVA Response: These reports do not match the requirements of the MCD which requires both enrollment and attendance within five days. When the parties drafted and agreed upon these three measure instructions (Att. 9) in 2021, Defendant DHS stated that it had no mechanism at the time to obtain and record the attendance records of the children in local department custody except by requesting individual records, for which they did not have the time. The following was included in each of the three measure instructions:

Note: as of the date of this measure instruction, the Agency does not believe it has an economical way of obtaining the attendance data for this measure. Until the Agency begins to collect and to report on attendance as well as enrollment, it will include in each report as a footnote to this measure: “Data reported for information purposes only. Measure not certifiable as compliant because attendance data not included.” The agency will develop a system for measuring attendance for implementation by January 1, 2022.

So far as the IVA is aware, Defendants have never developed the required system for measuring attendance. In addition, Defendants’ Report does not include the required footnote stating that the measure is not certifiable as compliant due to the lack of attendance data.

Internal Success Measure 97: *Percent of children eligible for special education who received special education services without interruption when they transferred schools.*

Defs.’ Report: 100% (Data Source: QSR)

IVA Response: The parties agreed to measure compliance with this requirement through the QSR process by determining first which children in the QSR sample (1) transferred schools within one year prior to the QSR and (2) had special education services in place when they transferred schools. For those children, Defendants then must determine which of those children had those services continue without interruption when they transferred schools. It has turned out that the first part of the determination has applied only to a very small number of children in the QSR samples. For example, it applied to only two children in the sample of thirty children in OHP whose cases were

reviewed in QSR in the 69th Reporting period. This is an inadequate number of children for an accurate, valid, and reliable report. Because there has been an inadequate number of children to whom this measure applied continuously over the reporting periods, the parties will need to find a different method of reporting on Defendants' compliance with this measure.

5. Workforce

The Workforce section of the MCD includes three outcomes containing 6 Exit Standards and 9 Internal Success Measures. Four measures are reported as "TBD": Measures 115, 116 (Exit Standards) and Measures 112, 113 (ISMs). Defendants have reached certification-level compliance for 3 Exit Standards: Measures 121, 125 and 126 and are seeking certification of these measures. Certification decisions for these Exit Standards and their related Internal Success Measures are discussed below.

The most critical measures in this section of the MCD address caseloads and supervision. (Exit Standards 115 and 116). At this time, the CJAMS reports for these measures are still under development. Regardless of the status of the reports themselves, the data is irrefutable that caseloads are unacceptably high to meet the needs of children in BCDSS custody and their families.

Internal Success Measure 117: *Percent of caseworkers who qualified for the title under Maryland State Law.*

Defs.' Report: 95.83% (Data Source: BCDSS QA Report)

IVA Response: Internal Success Measure 117 has the identical requirements to Exit Standard 121. Therefore, the reasoning and findings made for Exit Standard 121, below, are the same for Internal Success Measure 117.

Internal Success Measure 118: *Percent of case-carrying workers who passed their competency exams prior to being assigned a case.*

Defs.' Report: 95.83% (Data Source: BCDSS QA Report)

IVA Response: Internal Success Measure 118 is a subset of the requirements of Exit Standard 121. Its requirements are limited to ensuring the passage of competency exams prior to caseworkers being assigned their first cases. Defendants have provided reasonable documentation of the dates of passage of the competency exam and of assignment of first cases for all of the new caseworkers to whom cases were assigned during the 69th Report period.

Exit Standard 121: *95 percent of caseworkers met the qualifications for their position title under Maryland State Law.*

Defs.' Report: 95.83% (Data Source: BCDSS QA Report)

IVA Response: Based upon the documentation provided by Defendants, Defendants' reports for this Exit Standard and for Internal Success Measures 117 and 118 are found to be accurate, valid, and reliable. Defendants' reported compliance level of 95.83% for Exit Standard 121 is certified as compliant.

The measure instruction for Measure 121 follows the language of Maryland Human Services Article Section 4-301 which requires, with one exception, that Defendants hire as caseworkers only human services professionals who are licensed by the state in areas such as social work and psychology. Unlicensed individuals may be hired only if they meet the following criteria: (1) have a bachelor's degree in an "appropriate behavioral science"; (2) complete mandatory pre-service training; and (3) are supervised by licensed social workers. All new caseworkers must pass a competency test after the pre-service training and prior to being granted permanent employment and assigned cases.

For this Measure 121, the Defendants report a compliance level of 95.53% which meets the MCD requirements. The IVA has reviewed the information provided regarding new hire qualifications. The responses to follow up questions were satisfactory. Measure 121 requires reporting on newly hired caseworkers during the reporting period in which they are first assigned a case. For all of those caseworkers, Defendants provided (1) documentation of either an MSW in social work or related field or a bachelor's degree in an "appropriate behavioral science," and (2) proof of completion of the mandatory pre-service training and passage of the competency examination prior to assignment of a first case. For those new caseworkers without a social work license, they also provided documentation of their supervisors' social work license. The IVA finds that the procedures used by Defendants to collect this information and the data provided are reliable, valid, and accurate. The IVA certifies Defendants' compliance with Exit Standard 121 for the 69th Report period.

Exit Standard 125 (Internal Success Measure 123): *90 percent of cases were transferred with required documentation within five working days.*

Exit Standard 126 (Internal Success Measure 124): *90 percent of cases had a case transfer conference within ten days of the transfer.*

Note: Although these are two different Exit Standards with different measure instructions, BCDSS has decided to require that the case transfer conferences occur within the same five working days required for case transfer with documentation. Therefore, the procedures and data reviewed and the compliance level reported for Measures 123, 124, 125, and 126 are the same.

Defs.' Report: 96.54% (Data Source: BCDSS QA Report)

IVA Response: BCDSS has issued a detailed SOP and has a well-documented process for case and document transfers and conferences, resulting in a process which is likely to result in a valid

and reliable result. However, when the IVA reviewed the data calculation process with BCDSS Innovations staff, it was discovered that a number of cases were being excluded incorrectly from the compliance level calculation denominator due a mistaken belief that only certain categories of OHP cases should be included. Therefore, the reported compliance level of 96.54% is not accurate. However, Innovations staff worked with the IVA to recalculate the results based on the correct denominator, and IVA finds the new result to be accurate. Therefore, these measures are certified at the corrected compliance level of 95.47%.²³

B. Additional Commitments

Four of the five subsections in Part Two of the MCD also have Additional Commitments included. These 22 Additional Commitments are included in the MCD to address issues of importance to the welfare of the children served by BCDSS which do not fit neatly into the Internal Success Measures/Exit Standards measures format. Defendants are required to report on compliance with the Additional Commitments in each six-month compliance report. A review of the Additional Commitments and certification discussions are included as Appendix 1 to this report.

C. Other Reporting Requirements

Both the first and second parts of the MCD contain a number of other reporting requirements. (See IVA Resp. to 64th Rep., Att. 1, *L.J.* MCD Notification and Reporting Requirements.) Defendants have reported on five of these other reporting requirements in the 69th Report.

²³ The IVA offered Defendants the opportunity to replace the incorrectly reported data in the 69th Report with correctly re-calculated data before the report was filed with the Court, but Defendants declined the opportunity.

1. MCD Part One, Section II. Verification Activities and Information Sharing

F. The Plaintiffs shall have access to the following: ... 4. Within one working day, Plaintiffs' counsel shall be notified of the serious injury or death of any class member and shall be provided timely the incident report, any reports of the investigative outcomes, and access to the child's case file.

Defendants state: "BCDSS notifies Plaintiffs' counsel of the death or serious injury of any class member as required by this provision of the MCD. The Agency is committed to ensuring the timely submission of required critical incident and fatality reports. ... The Agency continues to explore process changes that will assure the highest level of compliance with all the requirements of this section." (Defts' 69th Rep., p 22). This is the third consecutive report in which Defendants have reported "exploring" or "continu[ing] to explore" such process changes. (See Defts' 67th Rep., pp. 36-37 and 68th Rep., p. 41).

During 2022, Defendants provided 13 initial fatality reports, all promptly (within a few working days). For the 2 fatalities that were deaths of youth in foster care, the fatality reports were provided on the day of their deaths. Final fatality reports, due 60 days after the fatality, were not provided as timely. Furthermore, the IVA remains concerned about the paucity of information and recommendations provided in some of the final fatality reports (where the reports appear to be solely a summary of the neglect and abuse investigation disposition).

For 2023, Defendants have provided 8 initial fatality reports as of October 8, 2023, all promptly (if not within one working day). Three of the fatalities were, tragically, of murdered young men, ages 13, 17 and 19, and do not require final fatality reports under state policy. For the 5 other fatalities, only 1 final fatality report has been provided. That final report was not provided until more than two months after it was completed.

During 2022, Defendants provided approximately 35 critical incident reports revolving physical abuse or injuries to children in OHP. In 2 cases, the reports were not received for more than a month; most of the others were received within a couple of business days. Follow-up reports continued to be provided only inconsistently.

From January through September 2023, Defendants provided approximately 55 critical incident reports involving physical abuse, serious neglect or injuries to children in OHP. In all but 1 case, the reports were received within a week; most were received within a day or two of the incident. The IVA has no record of any follow up reports being provided.

2. MCD Part One, Section II. Verification Activities and Information Sharing

F. The Plaintiffs shall have access to the following: ... 5. Defendants shall promptly provide to the Independent Verification Agent and to Plaintiffs' counsel all publicly available reports that Defendants receive indicating that they are not in compliance with a requirement of this Decree.

The Defendants state: "There are no such reports known to the Department at this time." (Defts' 69^h Rep., p. 23).

This is the third consecutive report period in which Defendants have failed to share with Plaintiffs' counsel and the IVA, Maryland Department of Legislative Services' (DLS) reports of repeat findings against DHS concerning its child welfare operations. See MD Dept Legis Services, DHS_SSA Follow-up Review July 2022 (issued July 7, 2022) (Att. 10).

This report clearly is a "*publicly available report*" which indicates that Defendants "*are not in compliance with a requirement of this Decree.*" Specifically, DLS found that:

1. "SSA has not established effective monitoring of the LDSSs to ensure that foster children were placed in the least restrictive environment and received required

services.” (p. 3) Relevant to this continuing finding was DLS’ finding that “SSA did not review applicable documentation within CJAMS or follow-up with the LDSSs to ensure instances of non-compliance were resolved, even though the CJAMS reports indicated that such requirements were not met for numerous children.” (p. 6).

2. “SSA’s monitoring process was not effective for ... ensuring the timeliness of child abuse and neglect investigations ... conducted by the LDSSs.” (p. 3).

3. MCD Part One, Section III, Communication and Problem-Solving

E. By December 31, 2009, Defendants, after consultation with the Internal Verification Agent, Plaintiffs’ counsel and stakeholders, shall establish a standardized process for resolving issues related to individual class members. ... Records shall be kept of the issues raised and their resolutions, and summary reports shall be provided to the Internal Verification Agent and Plaintiffs’ counsel every six months.

In its 69th Report (p. 23), Defendants repeat the same information as in their 68th Report (pp. 41-42) without responding to questions and concerns raised by the IVA’s Responses to the 67th Report (pp. 51-52) and the 68th Report (p.58). The summary does not speak to questions about whether the process presented to Plaintiffs’ counsel and the IVA and described in the brochure created for public dissemination was followed. For example, were complaints acknowledged in writing within three business days? After the review/investigation of the reported issue was completed, was a letter sent to the complainant by the Director with the outcome?

In Defendants’ “Complaint Process Summary Report for the 69th *L.J.* Compliance Report” (Att. 11), they further repeat that, “No current changes have been made to the complaint process. There will be noticeable changes coming in the 71st reporting period [July – December 2023]

resulting from feedback provided by the Independent Verification Agent.” The IVA cannot certify compliance when Defendants themselves state that the policy and process are not finalized.

Once again, Defendants’ Complaint Process Summary provides some useful information about the types of complaints received - described as primarily related to payment issues and relative concerns about visitation or children’s placements; the rest are broadly categorized as “under the umbrella of lack of communication.” Although Defendants do not need to go into explicit detail about every single complaint, the current summary is lacking in adequate detail and also fails to address the procedural process (timeliness of response, etc.). Furthermore, without the promised access to the complaint tracker, the IVA cannot respond as to whether or not the summary adequately represents the issues raised.

4. MCD Part Two, Section II. Out-of-Home Placement

D 1. a. (4) Plaintiffs’ counsel will be notified within ten working days of any child being placed on a waiting list or in temporary placement.

Defendants report on this requirement in the 69th Report by stating that “BCDSS is in compliance with this requirement ... and is respectfully requesting certification for this reporting period.” (p. 31). BCDSS has continued to send a weekly list of children who have overstayed the period of medical necessity in hospitals and children who are on waiting lists to locate or be placed in new settings. The IVA acknowledges the efforts of the Defendants to create and share this information as required by the MCD. However, the IVA has no way to verify the accuracy and completeness of the list at this time. For the next reporting period, the IVA will request additional documentation from Defendants to allow the IVA to validate whether or not all cases required to be reported are being reported.

5. MCD Part Two, Section II. Out-of-Home Placement

D. 9. a. (1) (b) ... Within five business days of receipt of a [maltreatment in care] report, BCDSS shall notify the attorney for the child, the child's parents and their attorneys ..., Plaintiffs' counsel An unredacted (except the name of and identifying information about the reporter and privileged attorney-client material) copy of the report must be provided to the child's attorney and Plaintiffs' counsel. The completed unredacted ... disposition report must be provided to the child's caseworker, child's attorney and to Plaintiffs' counsel within five business days of its completion. ...

Defendants report on this requirement through its report of data for Exit Standard 66, which requires 95% compliance with the five-day notice requirements. They report that they provided the maltreatment report within five days in 88.89% of cases and the disposition report within five days in 3.7% of cases. (Defts' 69th Rep., p. 64). This requirement is not just a procedural one. To meet their obligations to the children in BCDSS foster care, Plaintiffs' counsel, and the children's and parents' CINA (Juvenile Court) attorneys need timely notice of maltreatment reports and the outcome (dispositions) of those reports. Since the beginning of implementation of this MCD, Defendants continually have promised – and failed – to make the changes necessary to fix the problem of late provision of reports and, especially, dispositions (which often have not been provided at all until and unless specifically requested by the IVA).

Copies provided on October 24, 2023, by email to:

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LIST OF ATTACHMENTS

- Attachment 1. IVA Response to Defs.' 56th Report (filed November 29, 2017), pp. 2-12.
- Attachment 2. DHR Letter to Gen. Assembly with CWLA Study 10.06.
- Attachment 3. Baltimore Banner, "Maryland Foster Children are Being Kept Overnight in Hotels and Downtown Office Buildings" (September 15, 2022).
- Attachment 4. Baltimore Banner, "Maryland Kids in Distress Are Being Kept in Emergency Departments For Weeks, Months" (August 9, 2022).
- Attachment 5. Pls.' Letters Requesting Dispute Resolution on Placement Issues (June 12, 2023).
- Attachment 6. Pls.' Suppl. Ltrs. Requesting Dispute Resolution on Placement Issues (June 26, 2023).
- Attachment 7. Defs.' Response to Pls.' Ltrs. Requesting Dispute Resolution (July 21, 2023).
- Attachment 8. BCDSS Youth Wellness Program Frequently Asked Questions (August 2023).
- Attachment 9. *L.J.* Measures 95, 96 and 99, Measure Instructions.
- Attachment 10. MD Dept Legis Services, DHS_SSA Follow-up Review July 2022.
- Attachment 11. Defs.' Complaint Process Summary Report for the 69th *L.J.* Compliance Report.