CASE NO. 25-1239

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

JONATHAN R., MINOR, by NEXT FRIEND, SARAH DIXON, *ET AL.*,

Plaintiffs-Appellants,

v.

PATRICK MORRISEY, IN HIS OFFICIAL CAPACITY AS GOVERNOR OF WEST VIRGINIA, *ET AL.*,

Defendants-Appellees.

On Appeal From The United States District Court
For The Southern District of West Virginia
Case No. 3:19-cv-00710

BRIEF OF *AMICI CURIAE* THE NATIONAL HEALTH LAW PROGRAM, THE ARC OF THE UNITED STATES, THE JUDGE DAVID L. BAZELON CENTER FOR MENTAL HEALTH LAW, AND THE CENTER FOR PUBLIC REPRESENTATION

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UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

DISCLOSURE STATEMENT

- In civil, agency, bankruptcy, and mandamus cases, a disclosure statement must be filed by **all** parties, with the following exceptions: (1) the United States is not required to file a disclosure statement; (2) an indigent party is not required to file a disclosure statement; and (3) a state or local government is not required to file a disclosure statement in pro se cases. (All parties to the action in the district court are considered parties to a mandamus case.)
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- In criminal cases, the United States must file a disclosure statement if there was an organizational victim of the alleged criminal activity. (See question 7.)
- Any corporate amicus curiae must file a disclosure statement.
- Counsel has a continuing duty to update the disclosure statement.

No. 25-1239 Caption: Jonathan R, Minor, by Next Friend v. Morrisey

Pursuant to FRAP 26.1 and Local Rule 26.1,

The National Health Law Program
(name of party/amicus)

who is amicus, makes the following disclosure:
(appellant/appellee/petitioner/respondent/amicus/intervenor)

1. Is party/amicus a publicly held corporation or other publicly held entity? ☐ YES ☑ NO

2. Does party/amicus have any parent corporations? ☐ YES ☑ NO
If yes, identify all parent corporations, including all generations of parent corporations:

3. Is 10% or more of the stock of a party/amicus owned by a publicly held corporation or other publicly held entity? ☐ YES ☑ NO
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4. Is there any other publicly held corporation or other publicly held entity that has a direct financial interest in the outcome of the litigation? ☐YES ☑NO
If yes, identify entity and nature of interest:

5. Is party a trade association? (amici curiae do not complete this question) ☐YES ☐NO
If yes, identify any publicly held member whose stock or equity value could be affected substantially by the outcome of the proceeding or whose claims the trade association is pursuing in a representative capacity, or state that there is no such member:

Not applicable as party is amici curiae.

6. Does this case arise out of a bankruptcy proceeding? ☐YES ☑NO
If yes, the debtor, the trustee, or the appellant (if neither the debtor nor the trustee is a party) must list (1) the members of any creditors' committee, (2) each debtor (if not in the caption), and (3) if a debtor is a corporation, the parent corporation and any publicly held corporation that owns 10% or more of the stock of the debtor.

7. Is this a criminal case in which there was an organizational victim? ☐YES ☑NO
If yes, the United States, absent good cause shown, must list (1) each organizational victim of the criminal activity and (2) if an organizational victim is a corporation, the parent corporation and any publicly held corporation that owns 10% or more of the stock of victim, to the extent that information can be obtained through due diligence.

Signature: /s/ James Michael Showalter Date: May 20, 2025

Counsel for: National Health Law Program

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IDENTITIES AND INTEREST OF *AMICI CURIAE* AND INDICATION THAT THIS BRIEF IS FILED WITH THE CONSENT OF THE PARTIES

For more than fifty-five years, the **National Health Law Program (NHeLP)** has engaged in litigation and policy advocacy to ensure access to essential health care for low-income children and adults with disabilities. NHeLP's systemic litigation includes actions to obtain community-based services for children with mental health conditions in ten states and those with complex medical conditions in several others.

The Arc of the United States (The Arc) is the largest national community-based organization advocating for and serving persons with intellectual and developmental disabilities (IDD) and their families. Founded in 1950, The Arc has nearly 600 state and local chapters. The Arc seeks to promote and protect the civil and human rights of people with IDD and to actively support their full inclusion and participation in the community**.**

The Judge David L. Bazelon Center for Mental Health Law (the "Bazelon Center") is a national nonprofit advocacy organization founded in 1972 that advocates for the rights of adults and children with mental health disabilities. Through litigation, policy advocacy, education, and training, the Bazelon Center works to advance full inclusion, equality, and dignity of people with disabilities in all aspects of life, including community living, employment, education, health

care, housing, and other areas. The Bazelon Center was instrumental in the passage of the Americans with Disabilities Act and has extensive experience litigating community integration cases under the Americans with Disabilities Act and Section 504 of the Rehabilitation Act.

The Center for Public Representation (CPR) is a national advocacy organization dedicated to enforcing and expanding the rights of people with disabilities and others who are in segregated settings. For more than fifty years, CPR has used legal strategies, advocacy, and policy to design and implement systemic reform initiatives that increase access to integrated community services for children and adults with disabilities. CPR has litigated systemic cases on behalf of people with disabilities in more than twenty jurisdictions, including initiatives securing home and community-based services for children with disabilities in child welfare and juvenile justice systems.

Amici Curiae are all non-governmental organizations with extensive legal and practical experience serving people with disabilities, including children in the foster care system. *Amici Curiae* are unanimous in their conviction that the District Court's decision here is inconsistent with decades of law and should be overturned.

Amici Curiae submit this brief with the consent of the parties to this matter. This brief was prepared wholly by undersigned counsel on a *pro bono* basis with

assistance by in-house attorneys and/or staff for each of the *Amici Curiae* organizations, and no party's counsel authored this brief in whole or in part. No costs for the preparation of this brief have been specifically contributed by any party.

ARGUMENT

Amici Curiae are advocacy organizations with decades of experience securing systemic injunctive relief designed to redress violations of Title II of the Americans with Disabilities Act (ADA), 42 U.S.C. § 12131 *et seq.*, and Section 504 of the Rehabilitation Act ("Section 504"). 29 U.S.C. § 794. Federal courts have the authority to determine that class certification is an appropriate vehicle for securing systemic injunctive relief under these statutes. Individual plaintiffs experiencing unnecessary segregation and institutionalization have standing to raise these types of claims. And federal courts have the authority to enter orders for class-wide injunctive relief.

The District Court erred in dismissing this case in light of precedent including this Court's prior decision. This error is even clearer given the imminency of trial, which would have clarified both the extent of the Appellees' liability and the appropriate scope of class-wide injunctive relief. Given the ADA and Section 504 claims at issue in this case, that injunctive relief very likely would have included reasonable modifications to Appellees' policies and practices as well

as affirmative obligations to provide services in the most integrated setting appropriate for qualified individuals with disabilities as required by federal law and the Supreme Court's decision in *Olmstead v. L.C. ex rel. Zimring*, 527 U.S. 581 (1999).

Children with disabilities in West Virginia's child welfare system will be irreparably harmed if this Court affirms the District Court's improperly constrained concept of federal judicial authority. This outcome would constitute an extraordinary departure from federal courts' longstanding recognition that children with disabilities may seek systemic relief from harmful governmental practices.

I. A Significant Percentage of Children in the Child Welfare System Have Disabilities Entitling Them to Seek Systemic Injunctive Relief for Violations of the ADA and Section 504.

The foster care system contains a significantly higher percentage of children with disabilities than the population at large. Joshua B. Kay, *Advocating for Children with Disabilities in Child Protection Cases*, 35 Touro L. Rev. 345, 347 (2019). Approximately one-third of children younger than fourteen who are involved in the child welfare system have special health care needs, which is nearly three times the rate found in the general population. *Id.* at 348. Sixty percent of older foster youth had an identified disability that makes them eligible for special education services. *Id.* The high rate of disability among children in foster care makes it imperative for child welfare systems to provide timely access

to disability services in the most integrated setting appropriate for those children to avoid unnecessary and prolonged institutionalization.

Children with disabilities—particularly those with unmet mental health needs—already have a greater risk of involvement with the child welfare system and are more likely than other children to be removed from their parents. *Id.* at 351. Children with disabilities face the risk of out-of-home placement nearly twice as often as non-disabled children, and an agency is more likely to seek termination of parental rights (*i.e.* committing them to the custody of the foster care system without expectation of being returned to their prior families) for these children. *Id.*; *see also* Katharine Hill, *Permanency and Placement Planning for Older Youth with Disabilities in Out-of-Home Placement*, 34 Child. & Youth Servs. Rev. 1418, 1419 (2012) ("[O]lder youth with disabilities suffer from higher rates of placement disruption and instability than their peers without disabilities.").

In West Virginia, these problems are even more pronounced: as of 2023, approximately thirty-two percent of West Virginia youth have one or more emotional, developmental, or behavioral disabilities—the highest percentage of any state.[1] West Virginia also leads the nation in terms of the proportion of its

[1] Annie E. Casey Foundation, *Children Who Have One or More Emotional, Behavioral, or Developmental Conditions in the United* States, Kids Count Data Center, *available at* https://datacenter.aecf.org/data/tables/10668-children-who-have-one-or-more-emotional-behavioral-or-developmental-conditions?loc=1&loct=1#detailed/2/2-52/false/2490/any/20457,20456 (last visited May 20, 2025).

children in foster care who are housed in congregate care[2].[3] From July 2021 to June 2022, a total of 531 West Virginia foster children were living out of state,[4] which happens when children cannot receive appropriate levels of treatment inside of the state, either in an institution or in a family setting with appropriate wrap-around care supporting their ability to live outside of an institution. The Commission to Study Residential Placement of Children collected further information on 479 of these youth.[5] Of those 479 youth, forty-four percent had an intellectual disability.[6] During this same period, the state held contracts with 49 out-of-state treatment centers, in states as far away as Utah, Arkansas, and Florida.

The District Court agrees that West Virginia's foster system needs reform but is unwilling to weigh the evidence of liability and determine the scope of

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[2] Congregate care is a child's placement in an out-of-home care facility, such as a group home, emergency shelter, psychiatric institution, or in-patient hospital. Ideally, congregate care settings should be short-term solutions while agencies seek an appropriate in-home placement, adoption, or kinship care.

[3] Sarah Catherine Williams, *State-level Data for Understanding Child Welfare in the United States* (Fed. 22, 2024), *available at* https://www.childtrends.org/publications/state-level-data-for-understanding-child-welfare-in-the-united-states (last visited May 20, 2025).

[4] W. Va. Dep't of Health & Human Res., Comm'n to Study Residential Placement of Children, *Advancing New Outcomes: Findings, Recommendations, and Actions of the West Virginia Commission to Study Residential Placement of Children* at 26 (Feb. 2023), *available at* https://www.wvdhhr.org/oos_comm/reports/Outcomes_Progress_Report_2022.pdf (last visited May 20, 2025).

[5] *Id.* at 28.

[6] *Id.*

necessary injunctive relief. In so doing, the District Court ignores that the ADA may require reasonable modifications to that system's policies, practices, and procedures to avoid discrimination based on disability, and a necessary component of that requirement is class-wide injunctive relief. *See* 28 C.F.R. § 35.130(b)(7); *Olmstead*, 527 U.S. at 587. The ADA and Section 504 of the Rehabilitation Act require that services for individuals with disabilities be provided in the most integrated setting[7] appropriate to the needs of those individuals. A system's failure to provide services in the most integrated setting violates federal law, and that violation may be challenged in federal court.[8]

II. Consistent with the Reasonable Modification Requirements of the ADA, Section 504, and the *Olmstead* Decision, Cases Challenging Discriminatory Segregation Routinely Seek Systemic Relief.

Appellants' prayers for systemic relief to ensure that Appellees administer services to people with disabilities in the most integrated setting appropriate to their needs, as required by the ADA and Section 504, are typical and suitable for disposition by a federal district court. These claims are precisely the types of

[7] The "most integrated setting" means "a setting that enables individuals with disabilities to interact with nondisabled persons to the fullest extent possible." 28 C.F.R. Part 35, Appendix B § 35.130.

[8] *See, e.g.*, *M.J. v. District of Columbia*, No. 1:18-cv-01901-EGS, 2019 WL 3344459, at *11 (D.D.C. July 25, 2019) (holding that a class of Medicaid-eligible children has standing to pursue and properly stated a claim that public entity defendants "failed to provide required services in [plaintiffs'] homes, or in the community," and therefore, plaintiff were "unnecessarily institutionalized").

claims that have been routinely brought for many years under Title II of the ADA, Section 504, and the *Olmstead* decision. Contrary to the district court's view that Appellants' claims are beyond the power of federal courts to address, federal courts routinely consider claims under the ADA and Section 504 seeking similar system-wide injunctive relief.

First, Appellants' integration mandate claims involve well-established statutory rights that are well within the power of federal courts to enforce. The Supreme Court affirmed in *Olmstead* that the needless institutionalization of individuals with disabilities is a form of discrimination prohibited by Title II of the ADA. The Court explained that its holding reflected two evident judgments. First, institutionalizing individuals with disabilities who could be served in community settings "perpetuates unwarranted assumptions that persons so isolated are incapable or unworthy of participating in community life." *Olmstead*, 527 U.S. at 600. Second, "confinement in an institution severely diminishes the everyday life activities of individuals, including family relations, social contacts, work opportunities, educational advancement, and cultural enrichment." *Id.* at 601.

The Court further held that public entities are required to provide community-based services to persons with disabilities when (a) such services are appropriate; (b) the affected persons do not oppose community-based treatment; and (c) community-based services can be reasonably accommodated, considering

the resources available to the entity and the needs of others who are receiving disability services from the entity. *Id.* at 607. As described in Section III, numerous federal courts have adjudicated claims under this "integration mandate" and found violations warranting systemic relief.

Moreover, the *Olmstead* decision itself contemplates integration mandate claims seeking systemic relief. For example, the Court expressed concern that such claims brought by *individual* plaintiffs might result in a form of line jumping with those plaintiffs moving ahead of others who also desire to live in the community and are waiting for access to scarce community-based services. *Id*. at 606 ("In such circumstances, a court would have no warrant effectively to order displacement of persons at the top of the community-based treatment waiting list by individuals lower down who commenced civil actions."). Accordingly, the Court crafted a "fundamental alteration" defense that considers how the requested relief would impact the service system and not solely the individual—a defense that is designed for and routinely used in cases seeking systemic relief. *Id.* at 603–04; *see also Powers v. McDonough*, 740 F. Supp. 3d 985, 999 (C.D. Cal. 2024) (evaluating the federal government's fundamental alteration defense in systemic *Olmstead* litigation); *Brown v. District of Columbia*, 761 F. Supp. 3d 34, 92–95 (D.D.C. 2024) (evaluating the District of Columbia's fundamental alteration defense in systemic *Olmstead* claim); *United States v. Florida*, 682 F. Supp. 3d

1172, 1242 (S.D. Fla. 2023) (evaluating Florida's fundamental alteration defense in systemic *Olmstead* claim).

The Appellants' integration mandate claims in this case are no different from those brought by adults and children with disabilities in dozens of other cases, also seeking systemic relief involving changes to policies or practices in complex service systems. For example, in *Pashby v. Delia*, adults with disabilities brought integration mandate claims under the ADA and Section 504, challenging institutional bias in personal care services that made the eligibility requirements to get the same service in institutional adult care homes less stringent than the eligibility requirements for in-home assistance. 709 F.3d 307 (4th Cir. 2013) (abrogated on other grounds) (affirming grant of class-wide preliminary injunction). In *Timothy B. ex rel. War v. Kinsley*, a class of children with mental health disabilities brought integration mandate claims under the ADA and Section 504 challenging their unnecessary institutionalization in psychiatric residential treatment facilities. No. 1:22-cv-1046, 2024 WL 1350071 (M.D.N.C. Mar. 29, 2024) (denying motion to dismiss for failure to state a claim). Similar claims were brought by a class of people with disabilities unnecessarily institutionalized in nursing facilities in *Brown*. 761 F. Supp. 3d at 95 (finding that the District of Columbia violated the ADA and Section 504 and issuing an injunction requiring the District to take a several steps, including developing and implementing a

working system of transition assistance for plaintiffs and ensuring sufficient capacity of community-based long-term care services to serve plaintiffs in the most integrated setting appropriate to their needs). In *Townsend v. Quasim*, a class of physically disabled individuals challenged their exclusion from community-based long-term care services. 328 F.3d 511 (9th Cir. 2003) (finding that the public entity defendant's refusal to offer community-based in-home nursing services to some disabled persons may violate the ADA and reversing grant of summary judgment).

Plaintiffs have brought dozens of similar integration mandate claims in other courts seeking systemic relief, as shown in the chart at Appendix A. Further, as reflected in Appendix A, numerous claims have been brought seeking systemic relief for violations of other aspects of Title II of the ADA and Section 504. *See*, *e.g.*, *Liberty Res., Inc. v. City of Philadelphia,* No. cv 19-3846, 2020 WL 3816109 (E.D. Pa. July 7, 2020) (certifying class of people with mobility impairments seeking an injunction requiring all future new construction and alterations to sidewalks and streets ensure that pedestrian rights of way comply with federal accessibility standards); *M.F. ex rel Ferrer v. New York City Dep't of Educ.,* No. 18-CIV-6109-NGSJB, 2019 WL 2511874, at *1 (E.D.N.Y. June 18, 2019) (certifying class of children with diabetes seeking injunction requiring city education and health agencies to provide diabetes-related care to children attending

city schools); *Lewis v. Cain,* 324 F.R.D. 159, 162–63 (M.D. La. 2018) (certifying class of inmates with disabilities seeking injunctive relief "to abate the alleged systemic deficiencies in [d]efendants' policies and practices that subject all inmates to unreasonable risks of serious harm"); *McBride v. Michigan Dep't of Corr.,* No. 15-11222, 2017 WL 3085785, at *1 (E.D. Mich. July 20, 2017) (certifying class of deaf and hard of hearing inmates seeking an injunction requiring defendants to provide the accommodations that plaintiffs needed to effectively communicate and to participate in Department of Corrections programs, services, and activities).

These claims have routinely sought to remedy discrimination occurring in complex service systems. As the examples above demonstrate, such relief has included measures designed to expand community-based services for people with disabilities, facilitate transitions out of institutional settings, build sidewalks and streets to be accessible, ensure that schools provide diabetes-related care, and change correctional facility practices to ensure effective communication and safe conditions for inmates with disabilities. While such remedial measures often require court oversight, contrary to the District Court's concern in this case, they do not require courts to supervise the entire operations of governments or "reimagine [them] from the ground up." *Jonathan R. v. Morrisey*, No. 3:19-CV-00710, 2025 WL 655811, at *2 (S.D.W. Va. Feb. 28, 2025).

Further these claims have required—and courts have routinely made—decisions about whether institutionalization is "unnecessary" or requested relief is "unreasonable." Despite the District Court's belief that a court cannot engage in such decision-making, *id*., federal courts regularly decide these questions because the ADA and Section 504 require that courts decide them. *See, e.g., Olmstead*, 527 U.S. at 596–97 ("unnecessary" or "unjustified" isolation of people with disabilities is a form of discrimination prohibited by the ADA); *id.* at 605–06 (explaining how the ADA's "reasonable modification" defense applies).

In sum, there is nothing about Appellants' disability discrimination claims under the ADA and Section 504 that renders those claims unsuitable for a federal court to address or to oversee the types of relief sought. To the contrary, these claims are exactly the sorts that are routinely presented to federal courts and that those courts are eminently capable of addressing.

III. Federal Courts Regularly Resolve Systemic ADA Violations, like those Pled Here, Demonstrating the Redressability of these Claims and their Appropriateness for Class-Wide Injunctive Relief.

Federal courts routinely enter class-wide injunctions requiring reasonable modifications to disability service systems when those remedies are necessary to fulfill public entities' obligations under the ADA and Section 504, including the provision of integrated, home and community-based services. *See* Appx. A. This

body of case law demonstrates that federal courts are the proper place to vindicate, and remedy, systemic claims arising under these statutes.

Federal courts have long viewed systemic injunctive relief to be within their authority to enter and approve, particularly in the context of litigation under the ADA. *See, e.g.*, *Ball v. Kasich*, No. 2:16-CV-282, 2020 WL 1969289, at *8 (S.D. Ohio Apr. 24, 2020) (finding class action settlement agreement, and system modifications including increased community service capacity, to be a fair and reasonable resolution of ADA and Section 504 claims); Order for Final Approval of Proposed Settlement and Entry of Judgment, *Amanda D. v. Hassan*, 1:12-cv-00053-SM, ECF No. 100-1 (D.N.H Jan. 17, 2014) (approving class action settlement agreement to resolve ADA and Section 504 claims by modifying institutional transition planning policies and expanding access to an array of integrated community mental health services), attached as Addendum A.1 pursuant to Fed. R. App. P. 32.1(b) and Local Rule 28(b). Precisely because these Title II ADA cases raise common questions, are based on common claims, and can remedy systemic deficiencies through a single injunctive order, courts have consistently granted class certification to allow for necessary relief. Schwartz & Rucker, *The*

Commonality of Difference: A Framework for Obtaining Class Certification in ADA Cases After Wal-Mart, 71 Syracuse L. Rev. 841 (2021).[9]

Further, court-ordered relief in such cases has led to public entities embracing system-wide relief efforts. *Olmstead* cases, in particular, have led to many "systemic reform initiatives" enforcing public entities' affirmative obligations to avoid unnecessary institutionalization and expand integrated community alternatives. *Id*. at 882. *Olmstead* cases are "uniquely appropriate" for class-wide injunctive relief because they arise out of a common course of conduct by the public entity and challenge "systemic policies or practices that unduly rely on institutions and other segregated settings for the delivery of services." *Id*. at 877; *see also Meza ex rel. Hernandez v. Weida*, No. 3:22-cv-783-MMH-PDB, 2024 WL 4025269, at *1 (M.D. Fla. Sept. 3, 2024) (approving class action settlement); *C.K. ex rel. P.K. v. McDonald*, No. 2:22-cv-01791 (NJC) (JMW), 2024 WL 730494, at *6 (E.D.N.Y. Feb. 22, 2024) (approving joint motion to certify two classes of dependent children with disabilities and finding requested expansion of intensive home and community-based mental health services, appropriate claims for class-wide relief); *Meza ex rel. Hernandez v. Marstiller,* No.

[9] Federal procedural rules contemplate that courts will use the record—the factual development of which they supervise—to determine the nature and extent of any injunctive relief to which plaintiffs demonstrate an entitlement. *See, e.g.,* Fed. R. Civ. P. 8(a)(1), (3) (requiring jurisdictional grounds statement and demand for relief to ensure, among other things, Article III satisfaction); *id.* at 53(a)(1)(C) (master appointment to handle posttrial matters).

3:22-CV-783-MMH-LLL, 2023 WL 2648180, at *13 (M.D. Fla. Mar. 27, 2023) (certifying class of adult Medicaid recipients with disabilities placed at risk of unnecessary institutionalization by Florida's decision to discontinue prescription coverage for incontinence supplies in the community and seeking modifications to state policies and practices.); *S.R. ex rel. Rosenbauer v. Penn. Dep't of Hum. Servs.,* 325 F.R.D. 103, 112 (M.D. Pa. 2018) (certifying class of children with mental health disabilities seeking systemic changes within human service and child welfare systems that would "provide for more placements, more services, prompt placement determinations, and fair allocation of the placements for children with and without mental health disabilities.").

Federal district courts evaluate, craft, and approve injunctive relief—both in the context of enforceable class-action settlement agreements and as part of translating their liability determinations into appropriately tailored injunctive relief—often by incorporating judgments proposed by defendants. *See, e.g., Rosie D. v. Patrick*, 497 F. Supp. 2d 76, 78 (D. Mass. 2007) (following liability decision in favor of a class of Medicaid-eligible children with serious emotional disturbance, Court issued the proposed judgment offered by defendants, with certain modifications requested by plaintiffs); *judgment terminated by Rosie D. v. Baker*, No. 01-30199-RGS, 2021 WL 2516082 (Jun 19, 2021) (returning "'responsibility for discharging the State's obligations' to defendants and

terminat[ing] the Judgment as satisfied" due to defendants' substantial compliance with the 2007 Judgment). Particularly in the context of ADA and Section 504 violations, courts have demonstrated an ability to fashion relief that is "aimed only at eliminating conditions that violate federal law, ensuring that 'responsibility for discharging the State's obligations is returned promptly to the State and its officials.'" *Jeremiah M. ex rel. Nicolai v. Crumm*, 695 F. Supp 3d 1060, 1089 (D. Alaska 2023) (quoting *Horne v. Flores,* 557 U.S. 433, 448 (2009)). Federal courts' ability to balance these factors has allowed them to issue or approve adequate systemic injunctions, even when certain individual prayers for relief may be overbroad. *M. D. ex rel. Stukenberg v. Abbott*, 907 F.3d 237, 271–273 (5th Cir. 2018) (striking portions of district court injunction while affirming dozens of provisions mandating reforms to foster care caseloads, monitoring, and oversight).

Courts commonly retain jurisdiction over approved settlement agreements to ensure compliance with these remedial orders. Doing so allows disputes to be resolved promptly, court orders to be modified as needed, and judicial oversight to remain in place only as long as necessary to achieve substantial compliance and remedy underlying legal violations. *See, e.g.*, Order Granting Final Approval of Class Action Settlement and Related Relief, *C. A. v. Garcia*, No. 4:23-cv-00009-SHL-HCA, ECF No. 89 at 4 (S.D. Iowa May 7, 2025) (order approving and incorporating the terms of a settlement agreement to reform children's mental

health system to include intensive home and community-based mental health services and agreeing to retain jurisdiction of the agreement to enforce its terms), attached as Addendum A.2 pursuant to Fed. R. App. P. 32.1(b) and Local Rule 28(b); *Lane v. Brown*, No. 3:12-cv-00138-AC, 2022 WL 3347031, at *2 (D. Or. Aug. 12, 2022) (finding substantial compliance with the parties' class action settlement agreement and that modifications to career counseling practices and the expansion of integrated employment services for adults in segregated workshops constituted a durable remedy warranting final dismissal); Memorandum and Order Re: Joint Motion for Dismissal, *Hutchinson v. Patrick*, 3:07-cv-30084-MAP, ECF No. 108 (D. Mass. Sept. 23, 2021) (dismissing class action settlement agreement entered on behalf of adults with acquired brain injuries and concluding defendants had complied with court-ordered system reforms including modification of outreach and transition planning policies and expansion of home and community-based services), attached as Addendum A.3 pursuant to Fed. R. App. P. 32.1(b) and Local Rule 28(b).

These long-standing practices, and the weight of legal precedent in this area, demonstrate that federal district courts have the ability, authority, and responsibility to remedy violations of federal law. Further, federal district courts have the capacity to enter and oversee systemic injunctive relief when necessary to resolve the claims and protect the interests of class members with disabilities.

These cases illustrate why the *sua sponte* ruling of the District Court is wholly inconsistent with countless federal court decisions around the country, which have found that similar ADA and *Olmstead* claims are redressable and well within their broad, equitable authority.

IV. Appellants' Systemic *Olmstead* Injuries Are Redressable.

Contrary to the District Court's decision, federal courts have routinely found that plaintiffs who bring systemic *Olmstead* claims have standing because their injuries are redressable. To have standing, a plaintiff must show that that they (1) suffered an injury-in-fact that is (2) fairly traceable to the defendant and (3) is redressable by the court. *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 560–61 (1992). "To determine if an injury is redressable," courts "must consider the relationship between 'the judicial relief requested' and the 'injury' suffered." *Murthy v. Missouri*, 603 U.S. 43, 73 (2024).

An injury is redressable if "it is likely . . . that the injury will be redressed by a favorable decision" from the court. *Friends of the Earth, Inc. v. Laidlaw Envtl. Servs. (TOC)*, 528 U.S. 167, 181 (2000). As the Fourth Circuit has explained, a plaintiff's burden to establish redressability "is not onerous." *Deal v. Mercer Cty. Bd. of Educ.*, 911 F.3d 183, 189 (4th Cir. 2018). Indeed, a plaintiff need not show that the court could redress their "every injury," only that they would "personally benefit in a tangible way from the court's intervention." *Sierra Club v. U.S. Dep't*

of the Interior, 899 F.3d 260, 284 (4th Cir. 2018) (quoting *Larson v. Valente*, 456 U.S. 228, 243 (1982)).

Thus, redressability properly focuses on whether the district court's intervention would benefit the plaintiff. For example, in *Disability Rights South Carolina v. McMaster*, the Fourth Circuit held that the plaintiffs failed to show redressability because the defendant, the Governor of South Carolina, did not enforce the policy at issue in the case. 24 F.4th 893, 903–04 (4th Cir. 2022). This Court did not doubt that the district court had the power to enjoin other officials who were directly responsible for implementing policies that violate the ADA. Rather, it concluded that the plaintiffs would not benefit from an injunction against the Governor, who was not responsible for the violation. *Id.* at 903.

McMaster is different than this case. Here, there is no doubt that Appellees are public entities responsible for ensuring West Virginia's child welfare system operates consistent with the ADA and Section 504. *See Jonathan R. v. Justice*, No. 3:19-cv-00710, 2023 WL 184960 at *19–20 (S.D.W. Va. Jan. 13, 2023) (assuming without deciding that Title II of the ADA and Section 504 apply to West Virginia's child welfare system).

As described in Section II, *Olmstead* claims have often "by their nature" challenged "systemic policies or practices that unduly rely on institutions and other segregated settings for delivery of services" that deny "people with disabilities the

opportunity to live, work, or be educated in a community-based setting." 71 Syracuse L. Rev. at 883. *Olmstead* cases typically challenge (1) a "public entity's failure to reasonably modify a disability service that . . . unduly relies on institutions and other segregated settings to provide services," (2) an entity's failure to offer those services in the most integrated setting, or (3) an entity's incentivization of segregation through the program's eligibility criteria or administration. *Id.* at 883 n.210, *see also id.* at 881–82 nn.205–08 (collecting cases across various institutional settings).

Accordingly, courts have routinely found that an *Olmstead* plaintiff has standing when systemic relief against the responsible public entity would redress the broad, system-wide injury of unjust segregation. *See, e.g.*, *Isaac A. v. Carlson,* No. 1:24-CV-37-AT, 2025 WL 904705, at *12 (N.D. Ga. Mar. 25, 2025) (holding that disabled plaintiffs' injuries were redressable when their desired injunctive relief—modifications to discharge planning policies and remedial services—would keep them out of segregated settings) *appeal docketed*, No. 24-11114 (11th Cir.); *Timothy B. ex rel. War,* 2024 WL 1350071, at *9 (noting that the "difficulties associated with institution-wide reforms do not mean that it is not appropriate for this court to consider such claims at all"); *Dyous v. Dep't of Mental Health & Addiction Servs.*, No. 3:22-CV-1518 (SVN), 2024 WL 1141856, at *11 (D. Conn. Mar. 15, 2024) (finding redressability where plaintiffs sought system-wide relief

that would "relieve" them "of their discrete injury of unnecessary institutionalization"); *Jeremiah M.*, 695 F. Supp. 3d at 1089–90 (finding redressability in *Olmstead* foster care case because the plaintiffs sought "systemic relief from injuries resulting from systemic flaws" and "[a]n order from this Court likely could redress these injuries by requiring systemic improvements, such as new systems for providing placements and services, enhanced and transparent reporting, better caseload management practices, and a requirement to conduct regular case record reviews."); *Florida*, 682 F. Supp.3d at 1194–95 (disabled children's claims for state-wide relief were redressable where trial evidence confirmed that the public entities' systemic failures resulted in unjustified institutionalization); *Parrales v. Dudek,* No. 4:15cv424-RH/CAS, 2015 WL 13373978, at *4 (N.D. Fla. Dec. 24, 2015) (finding redressability where broad injunctive relief would require Florida to provide home and community-based services).

In holding that the Appellants' injuries were not redressable, the District Court disclaimed any power to order the relief they sought. *Jonathan R.*, 2025 WL 655811, at *9. But the cases above demonstrate that courts routinely find that requests for systemic injunctive relief satisfy redressability because such injunctions necessarily "relieve" a plaintiff's injury of unnecessary institutionalization, and those injunctions can be tailored to remedy disability

discrimination by responsible state agencies. The District Court was wrong to disavow its broad equitable power here.

CONCLUSION

As is discussed above, the District Court's decision rests on a profound misapprehension of federal courts' responsibility to examine allegations of systemic discrimination on behalf of individuals with disabilities and federal courts' authority to enter class-wide relief, including reasonable modifications of state service systems. Accordingly, the Court should reverse the rulings of the District Court in their entirety and remand this matter for further proceedings.

Dated: May 20, 2025

Respectfully submitted,

/s/ J. Michael Showalter

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UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 25-1232 *Jonathan R., et al. v. Patrick Morrisey, et al.*

CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME LIMITATION

Certificate of Compliance With Type-Volume Limitation,
Typeface Requirements, and Type-Style Requirements

1. This brief complies with the type-volume limitation of Fed. R. App. P. 29(a)(5) because, excluding the parts of the brief exempted by Fed. R. App. P. 32(f):
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Dated: May 20, 2025

Respectfully submitted,

/s/ J. Michael Showalter

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CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that on May 20, 2025, he caused the foregoing document to be electronically filed through the Court's ECF system and that service of that document was accomplished through the aforementioned system on the following counsel of record to this matter at the following addresses:

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CASE NO. 25-1239

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

JONATHAN R., MINOR, by NEXT FRIEND, SARAH DIXON, *ET AL.*,

Plaintiffs-Appellants,

v.

PATRICK MORRISEY, IN HIS OFFICIAL CAPACITY AS GOVERNOR OF WEST VIRGINIA, *ET AL.*,

Defendants-Appellees.

On Appeal From The United States District Court
For The Southern District of West Virginia
Case No. 3:19-cv-00710

APPENDIX A TO THE BRIEF OF *AMICI CURIAE*

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APPENDIX A: LIST OF SELECTED ADA CLASS ACTION CASES FOR SYSTEMIC RELIEF

List of Selected ADA Class Action Cases for Systemic Relief				
Case Name (Cite)	Class Certified	Defendants	Injunctive/Declaratory Relief Sought	Category
Rogers v. Dart, No. 24-CV-03739, 2025 WL 1359120, at *8 (N.D. Ill. May 9, 2025)	"all individuals at Cook County Jail prescribed a cane, crutch, or walker by a jail medical provider assigned to Division 9."	Cook County, Sheriff of Cook County	Injunction requiring installation of grab bars and/or mounted show seats in jail toilets and showers.	ADA & § 504 Reasonable Accommodation
Connor v. Maryland Dep't of Health, No. CV MJM-24-1423, 2025 WL 1167846, at *1 (D. Md. Apr. 22, 2025)	"[r]esidents of nursing facilities who have disabilities with mobility impairment, and who live in nursing facilities that operate under the oversight authority of the Maryland Department of Health."	Maryland Department of Health and its Secretary	Declaratory and injunctive relief alleged failures to conduct statutorily mandated annual surveys and investigate complaints within statutorily prescribed time frames.	ADA & § 504 Reasonable Accommodation

List of Selected ADA Class Action Cases for Systemic Relief				
Case Name (Cite)	Class Certified	Defendants	Injunctive/Declaratory Relief Sought	Category
Caballero v. New York State Dep't of Corr. & Cmty. Supervision, No. 9:20-CV-1470, 2023 WL 12066736, at *6 (N.D.N.Y. May 1, 2023)	"all persons who: (a) were incarcerated in DOCCS custody; (b) DOCCS excluded from Shock on the basis that they were designated OMH Level 3 at any time between December 2, 2017, and November 3, 2021; (c) were not judicially ordered to be enrolled in Shock by their sentencing court; (d) were statutorily eligible to enroll in Shock; and (e) DOCCS did not offer an alternative six-month pathway to early release from prison."	New York State Department of Corrections and Community Supervision	Injunctive relief addressing Defendants' allegedly discriminatory policy of precluding disabled or otherwise impaired inmates from earning release eligibility through a six-month program.	ADA & § 504 Reasonable Accommodation

List of Selected ADA Class Action Cases for Systemic Relief				
Case Name (Cite)	Class Certified	Defendants	Injunctive/Declaratory Relief Sought	Category
B.D. by next friend Wellington v. Sununu, No. 21-CV-4-PB, 2024 WL 4227544, at *19 (D.N.H. Sept. 18, 2024)	"All children, ages 14 through 17, who: (1) are, or will be, in the legal custody or under the protective supervision of DCYF under N.H. Rev. Stat. Ann. § 169-C:3 (XVII) and/or (XXV); (2) have a mental impairment that substantially limits a major life activity, or have a record of such an impairment; and (3) currently are, or are at serious risk of being, unnecessarily placed in congregate care settings."	Governor of New Hampshire; Commissioner of the New Hampshire Department of Health and Human Services; Director of the Division for Children, Youth, and Families; Director of New Hampshire Medicaid Services; Director of the Administrative Office of the Courts	Injunctive and declaratory relief addressing allegedly discriminatory policies and practices resulting in excessive institutionalization of mentally impaired children.	ADA & § 504 Community integration, Reasonable Accommodation

List of Selected ADA Class Action Cases for Systemic Relief				
Case Name (Cite)	Class Certified	Defendants	Injunctive/Declaratory Relief Sought	Category
C.K. through P.K. v. McDonald, No. 222CV01791NJCJMW, 2024 WL 730494, at *2 (E.D.N.Y. Feb. 22, 2024)	"all current or future Medicaid-eligible children in New York State under the age of 21 (a) who have been diagnosed with a mental health or behavioral health condition, not attributable to an intellectual or developmental disability, that substantially limits one or more major life activities, (b) for whom a licensed practitioner of the healing arts acting within the scope of practice under state law has recommended IHCB-EPSDT Services to correct or ameliorate their conditions or who have been determined eligible for HCBS Waiver Services (as defined in the Amended Complaint, ECF No. 34, ¶ 10), and (c) who are segregated, institutionalized, or at serious risk of becoming institutionalized due to their mental health or behavioral health condition."	Commissioner of the New York State Department of Health; Commissioner of the New York State Office of Mental Health	Injunctive and declaratory relief to ensure Defendants are complying with their obligations under the Medicaid Act, the ADA, and the RA to timely provide, or arrange for, the provision of intensive home and community-based mental health services for children in New York.	Medicaid, ADA & § 504 Community integration,

List of Selected ADA Class Action Cases for Systemic Relief				
Case Name (Cite)	Class Certified	Defendants	Injunctive/Declaratory Relief Sought	Category
Fitzmorris v. New Hampshire Dep't of Health & Hum. Servs. Comm'r Lori Weaver, No. 21-CV-25-PB, 2023 WL 8188770, at *27 (D.N.H. Nov. 27, 2023)	"CFI Waiver participants who, during the pendency of this lawsuit, have been placed at serious risk of unjustified institutionalization because Defendants, by act or omission, fail to ensure that the CFI participants receive the community-based long term care services and supports through the waiver program for which they have been found eligible and assessed to need."	New Hampshire Department of Health & Human Services, its Commissioner	Injunctive relief requiring defendants to provide notice to CFI Waiver participants when service gaps appear.	Medicaid, ADA & § 504 community integration
Meza by & through Hernandez v. Marstiller, No. 3:22-CV-783-MMH-LLL, 2023 WL 2648180, at *13 (M.D. Fla. Mar. 27, 2023)	"All Florida Medicaid recipients whose prescription for incontinence supplies has been or will be denied Medicaid coverage based on Defendant's exclusion of those supplies for recipients aged 21 and older."	Secretary for the Florida Agency for Health Care Administration	Injunctive relief compelling AHCA to cover medically necessary incontinence supplies through Florida's Medicaid program to individuals living in the community (as opposed to only those living in nursing homes).	Medicaid, ADA & § 504 Reasonable accommodation

List of Selected ADA Class Action Cases for Systemic Relief				
Case Name (Cite)	Class Certified	Defendants	Injunctive/Declaratory Relief Sought	Category
Raymond v. New York State Dep't of Corr. & Cmty. Supervision, 579 F. Supp. 3d 327, 345 (N.D.N.Y. 2022)	"All persons who are (1) currently incarcerated or who will be incarcerated in a New York state prison; (2) not judicially ordered to be enrolled in the SIP by the sentencing court; (3) are or will be disqualified from the SIP for medical or mental health reasons; (4) otherwise eligible to enroll in the SIP; and (5) denied an alternative six-month pathway to early release from prison"	The New York State Department of Corrections and Community Supervision, its Acting Commissioner, and New York State	Injunctive relief addressing Defendants' allegedly discriminatory policy of precluding disabled or otherwise impaired inmates from earning release eligibility through a six-month program	ADA & § 504 Reasonable accommodation

List of Selected ADA Class Action Cases for Systemic Relief				
Case Name (Cite)	Class Certified	Defendants	Injunctive/Declaratory Relief Sought	Category
D.D. by Next Friend B.N. v. Michigan Dep't of Health & Hum. Servs., -- F. Supp. 3d --, 1:18-cv-11795, 2022 WL 16680727, at *2 (E.D. Mich. 2022)	"All Medicaid-eligible beneficiaries under the age of 21 in the State of Michigan for whom a licensed practitioner of the healing arts acting within the scope of practice under state law has determined, through an assessment, that intensive [HCBS] are needed to correct or ameliorate their emotional, behavioral, or psychiatric condition."	Michigan Dept. of Health and Human Services,	Declaratory judgment that Defendants have not complied with certain provisions of the previously mentioned acts; that Defendants unlawfully failed to provide certain services to Plaintiffs and Class Members. Injunctive relief: permanently enjoining Defendants from violating the rights of Plaintiffs and Class Members; permanently mandating Defendants to arrange treatment for Plaintiffs and Class Members	Medicaid, ADA & § 504 Community integration, Reasonable Accommodation

List of Selected ADA Class Action Cases for Systemic Relief				
Case Name (Cite)	Class Certified	Defendants	Injunctive/Declaratory Relief Sought	Category
A.M.C. v. Smith, -- F. Supp. 3d --, 3:20-cv-00240, 2022 WL 3210809, at *21 (M.D. Tenn. 2022)	Plaintiff Class: "All individuals who, since March 19, 2019, have been or will be disenrolled from TennCare, excluding individuals, and the parents and legal guardians of individuals, who requested withdrawal from TennCare" Disability Subclass: "Plaintiff Class members who are 'qualified individuals with a disability' as defined in 42 U.S.C. § 12131(2)"	Tennessee's Director of the Division of TennCare	(to remedy unlawful TennCare policies and practices resulting in terminations)	ADA Reasonable accommodation Medicaid Act, 14th Amendment,
M.C. v. Jefferson Cnty., New York, 65 NDLR P 82, 2022 WL 1541462, at *5 (N.D.N.Y. May 16, 2022)	"All non-pregnant individuals who are or will be detained at the Jefferson County Correctional Facility and had or will have prescriptions for agonist medication for opioid use disorder at the time of entry into defendants' custody, as well as two subclasses, one each for class members subject to pretrial and postconviction custody, respectively"	Jefferson County, the Sheriff, the Undersheriff, and Jail Administrator	Injunctive relief ordering the defendants to provide the class with agonist medication for opioid use disorder during their detention in defendants' custody in accordance with the requirements set forth in New York Correction Law § 626	ADA Prisoner medical treatment 8th and 14th Amendments,

List of Selected ADA Class Action Cases for Systemic Relief				
Case Name (Cite)	Class Certified	Defendants	Injunctive/Declaratory Relief Sought	Category
Walker v. Dart, No. 20-CV-00261, 2021 WL 809765, at *7 (N.D. Ill. Mar. 3, 2021)	"All Cook County Jail detainees who have been assigned and currently use a wheelchair to traverse the Cermak ramp"	Sheriff and Cook County	Injunction ordering that a jail ramp be brought into compliance	ADA & § 504 Physical access
Tellis v. LeBlanc, No. CV 18-541, 2021 WL 4267513, at *14 (W.D. La. Sept. 20, 2021)	"All prisoners who are or will be subjected to extended lockdown at David Wade Correctional Center" Subclass: "All individuals on extended lockdown at David Wade Correctional Center who have or are perceived as having a qualifying disability related to mental health, as defined within the Americans with Disabilities Act"	Officials at the Louisiana Department of corrections	Injunctive relief[1] .	ADA & § 504 Reasonable accommodation

[1] Limit the use of solitary confinement to cases and durations which are absolutely necessary to protect the health and safety of others; Divert prisoners with mental health disabilities to secure treatment facilities; Require that prisoners who must be in solitary confinement be allowed adequate out of cell time per day, including a mix of recreational activities and structured programming opportunities; Require that prisoners be permitted access to rehabilitative programming, radio and television entertainment, regular and scheduled visitation and phone call privileges, and other quality-of-life minima; Eliminate barbaric and outdated correctional practices that strip people of their clothing, property, and mattress; Require that DWCC hire and train sufficient qualified mental health staff to conduct its mental health services so as to appropriately identify, prevent, and treat prisoners' mental health challenges; Require an overhaul of the system for documenting and providing mental health medications; and prohibit punishing prisoners for seeking mental health care or manifesting symptoms of mental illness, and require suicide watch policies and practices that protect prisoners rather than punishing them, including the use of suicide prevention garments that cover the body and afford prisoners dignity and privacy, and use of suicide-resistant mattresses rather than bare concrete for sleeping.

List of Selected ADA Class Action Cases for Systemic Relief				
Case Name (Cite)	Class Certified	Defendants	Injunctive/Declaratory Relief Sought	Category
Newkirk v. Pierre, No. 19CV4283NGGSMG, 2020 WL 5035930, at *2 (E.D.N.Y. Aug. 26, 2020)	All Suffolk County residents with disabilities who: (1) have applied for or will apply for Supplemental Nutrition Assistance Program ("SNAP"), Medicaid, or Temporary Assistance ("TA"), from the [SCDSS] since July 1, 2018 and are entitled to reasonable accommodations in the application process to participate in or benefit from these programs; and/or (2) have been found eligible for such programs and are entitled to reasonable accommodations in order to enjoy equal opportunity to participate in or benefit from them.	Frances Pierre, Commissioner of the Suffolk County Department of Social Services	Declaration that defendant's actions and failures or refusals to act violate Title II of the ADA and Section 504 of the Rehabilitation Act Injunctive relief requiring defendant to provide adequate and timely information as to how to "request or access a reasonable accommodation needed to access or retain" benefits; identify those who may need accommodations; create a grievance process for when accommodations are denied, train staff to uphold these things, and report to court on state of accommodations.	ADA -- Reasonable accommodation to benefits application process

List of Selected ADA Class Action Cases for Systemic Relief				
Case Name (Cite)	Class Certified	Defendants	Injunctive/Declaratory Relief Sought	Category
Liberty Res., Inc. v. City of Philadelphia, No. CV 19-3846, 2020 WL 3816109, at *2 (E.D. Pa. July 7, 2020)	"All persons with disabilities or impairments that affect their mobility—including, for example, people who use wheelchairs or other mobility devices, as well as those who are blind or have low vision—and who use or will use pedestrian rights of way in the City of Philadelphia."	City of Philadelphia	Declaratory judgment that the City has violated the ADA and the Rehabilitation Act. Injunction requiring that all future new construction and alterations to sidewalks and streets ensure that the pedestrian rights of way are fully compliant with federal accessibility standards	ADA - Physical access (sidewalks)

List of Selected ADA Class Action Cases for Systemic Relief				
Case Name (Cite)	Class Certified	Defendants	Injunctive/Declaratory Relief Sought	Category
Ahlman v. Barnes, 445 F. Supp. 3d 671, 684 (C.D. Cal. 2020), appeal dismissed, 20 F.4th 489, 491 (9th Cir. 2021) (finding appeal moot because the Prison Litigation Reform Act provides that PIs and provisional classes automatically expire after 90 days)	• **The Pre-Trial Class:** "[A]ll current and future pre-trial detainees incarcerated at the Orange County Jail" • **Post-Conviction Class:** "[A]ll current and future post-conviction prisoners incarcerated at the Orange County Jail from the present until the COVID-19 pandemic has abated • **Medically-Vulnerable Subclass:** "[A] subclass of all persons who, by reason of age or medical condition, the CDC has identified as particularly vulnerable to injury or death if they were to contract COVID-19" • **Disability Subclass:** "[A] subclass of all persons within the Medically Vulnerable Subclasses who are vulnerable because of a disability as defined in federal law"	Orange County, CA and the sheriff in his official capacity	Compliance with CDC COVID-19 measures, release of disabled and medically vulnerable inmates	ADA subclass COVID prison conditions with

List of Selected ADA Class Action Cases for Systemic Relief				
Case Name (Cite)	Class Certified	Defendants	Injunctive/Declaratory Relief Sought	Category
Johnson v. New York State Dep't of Corr. & Cmty. Supervision, No. 18-CV-6568-CCR, 2020 WL 2558160, at *8 (W.D.N.Y. May 19, 2020)	"All incarcerated individuals with disabilities who were housed in the RMU at any Facility between February 8, 2018 and August 8, 2018, the date of filing of the Named Plaintiffs' Complaint."	NYS Department of Corrections and Community Supervisions (DOCCS), Governor of New York, the Acting Commissioner of DOCCS, and the State of New York	Injunctive relief ordering the defendant DOCCS to provide equal access or equivalent services for regional medical unit inmates (as compared to prison programs, services, and activities available to inmates without disabilities)	ADA & § 504 Reasonable accommodation
Murphy by Murphy v. Harpstead, 421 F. Supp. 3d 695, 703 (D. Minn. 2019)	"All individuals age 18 and older who are eligible for and have received a Disability Waiver, live in a licensed Community Residential Setting, and have not been given the choice and opportunity to reside in the most integrated residential setting appropriate to their needs."	Commissioner of the Minnesota Department of Human Services	Declaratory and injunctive relief.[2]	ADA and 504 Community integration Medicaid - reasonable promptness and advance notice and fair hearing requirements Fourteenth Amendment due process–

[2] Declaratory judgment – "(1) Defendant is violating the Medicaid Act by not providing services with reasonable promptness and violating Plaintiffs' Constitutional and Medicaid due process rights; and (2) Defendant is violating the ADA and RA by segregating Plaintiffs 'while failing to provide them with individualized housing services for which they are eligible.'"

Injunctive relief – Defendant must: (1) "[p]romptly ensure every Disability Waiver recipient living in a CRS facility receives notice about eligibility for and access to individualized housing services, including person-centered planning;" (2) "[s]pecifically provide access and take prompt steps to make individualized housing services, including person-centered planning, available to Plaintiffs in a reasonable amount of time ..."; and (3)

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J.S.X. Through Next Friend D.S.X. v. Foxhoven, 330 F.R.D. 197, 218 (S.D. Iowa 2019)	"All boys confined to the School since the filing of the Complaint, now, or in the future, who have received psychotropic medications or a diagnosis for a mental health disorder specified in the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition ("DSM-V") or Fourth Edition ("DSM-IV"), as determined by a mental health professional."	Director of Iowa's Department of Human Services; Administrator of the Division of Mental Health and Disability Services; and Superintendent of the Boys State Training School	Injunctive relief to impose systemic changes on the policies and practices at issue Declaratory relief to remedy unconstitutional health and safety risks brought by challenged policies and practices, including inadequate screening of mental health care professionals, screening policies that fail to require certain inquiries, and delegation to unlicensed counselors the implementation of treatment planning	ADA and § 504 Reasonable accommodation ; illegal segregation Due Process Clause of the 14th Amend.
M.F. by & through Ferrer v. New York City Dep't of Educ., No. 18CIV6109NGSJB, 2019 WL 2511874, at *1 (E.D.N.Y. June 18, 2019)	"All students with diabetes who are now or will be entitled to receive diabetes-related care and attend New York City Department of Education schools."	NYC DOE, NYC Department of Health and Mental Hygiene	Declaration of defendants' violation of ADA Title II and Rehab Act Injunction requiring defendants to provide diabetes-related care to children attending DOE schools	ADA and 504 - Reasonable Accommodatio n for medical services in school

"[t]ake such other steps as necessary to enable Plaintiffs to receive residential services in the most integrated setting appropriate to their needs ..."

List of Selected ADA Class Action Cases for Systemic Relief				
Case Name (Cite)	Class Certified	Defendants	Injunctive/Declaratory Relief Sought	Category
Westchester Indep. Living Ctr., Inc. v. State Univ. of New York, Purchase Coll., 331 F.R.D. 279, 301–02 (S.D.N.Y. 2019)	"Students and visitors with mobility disabilities – that is, individuals who use wheelchairs, individuals who use other mobility aids, and individuals with disabilities that affect their ability to walk distances or climb stairs but who do not use any mobility aids – who have been and are being denied meaningful access to the educational, cultural, and social programs, services, and activities offered at SUNY Purchase because of Defendants' continuing failure to provide accessible rights-of-way."	STATE UNIVERSITY OF NEW YORK, PURCHASE COLLEGE, its president and board of trustees	Accessibility on campus (curb cuts, widened pathways, ramps, automatic door openers, vertical access to buildings, etc)	ADA and 504 - Physical access
Dodson v. CoreCivic, No. 3:17-CV-00048, 2018 WL 4776081, at *2 (M.D. Tenn. Oct. 3, 2018)	"All inmates with Type I and insulin-dependent Type II diabetes who are or may become housed at Trousdale Turner Correctional Facility and who require access to blood sugar checks and insulin administratio n in coordination with regular mealtimes."	Tennessee DOC and CoreCivic (private prison operator)	Enjoin Defendants from assigning persons with diabetes to non-compliant facilities and bring all facilities into compliance in terms of the provision of medical care and reasonable accommodation to the need of diabetics	ADA - Prisoner medical access

List of Selected ADA Class Action Cases for Systemic Relief				
Case Name (Cite)	Class Certified	Defendants	Injunctive/Declaratory Relief Sought	Category
Nevarez v. Forty Niners Football Co., LLC, 326 F.R.D. 562, 572 (N.D. Cal. 2018)	**Injunctive Relief Class:** 1. All persons with mobility disabilities who use wheelchairs, scooters, or other mobility aids who will attempt to purchase accessible seating for a public event at Levi's Stadium and who will be denied equal access to the Stadium's facilities, services, accessible seating, parking, amenities, and privileges, including ticketing, during the three years prior to the filing of the Complaint herein through the conclusion of this action. **Companion Injunctive Relief Class:** 2. All persons who are companions of persons with mobility disabilities who use wheelchairs, scooters or other mobility aids and who have used or will use companion seating for public events located at Levi's Stadium during the three years prior to the filing of the Complaint herein through the conclusion of this action.	City of Santa Clara under Title II and 49ers Co. under Title III	Declaration of defendants' violations of Title II and III of the ADA Injunction requiring defendants to cease violations and to provide equal access to stadium and associated facilities in compliance with 2010 ADA Design Standards, to implement policies and practices that provide equal access, and to train employees on how to provide equal access	ADA and 504 - Physical access

List of Selected ADA Class Action Cases for Systemic Relief				
Case Name (Cite)	Class Certified	Defendants	Injunctive/Declaratory Relief Sought	Category
Lacy v. Dart, No. 14 C 6259, 2015 WL 1995576, at *1 (N.D. Ill. Apr. 30, 2015), aff'd sub nom. Lacy v. Cook Cty., Illinois, 897 F.3d 847 (7th Cir. 2018)	"All Cook County Jail detainees who have been assigned and currently use a wheelchair." (class certified in lower court decision and then class cert was affirmed in 7th cir.)	Cook County, Ill and the Sheriff of Cook County	Declaration of violation of ADA/Rehab act Injunction to bring courthouses and holding cells into compliance with access standards for wheelchair users	ADA and 504 - Physical access to courthouses

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Case Name (Cite)	Class Certified	Defendants	Injunctive/Declaratory Relief Sought	Category
Ball v. Kasich, 307 F. Supp. 3d 701 (S.D. Ohio 2018)	All Medicaid-eligible adults with intellectual and developmental disabilities residing in the state of Ohio who, on or after March 31, 2016, are qualified for home and community-based services, and, after receiving options counseling, express that they are interested in community-based services.	Gov. of Ohio, ODoDD, ODoM, OOD	Declaration that the defendants are violating Title II of the ADA and Section 504 of the Rehabilitation Act of 1973 by failing to provide services in the most integrated setting appropriate and by failing to inform class members about feasible alternatives to institutional care available Expand home and community-based services; provide access to integrated residential, employment, and day services; provide information to members of the Plaintiff class to enable them to choose between institutional care and home and community-based services	ADA and 504 - Community integration

List of Selected ADA Class Action Cases for Systemic Relief				
Case Name (Cite)	Class Certified	Defendants	Injunctive/Declaratory Relief Sought	Category
Postawko v. Missouri Dep't of Corr., No. 2:16-CV-04219-NKL, 2017 WL 3185155, at *3 (W.D. Mo. July 26, 2017), aff'd, 910 F.3d 1030 (8th Cir. 2018)	All those individuals in the custody of MDOC, now or in the future, who have been, or will be, diagnosed with chronic HCV (hep-C) as that term is defined medically, but who are not provided treatment with direct acting antiviral drugs.	Missouri Department of Corrections	Declaration that defendants' policy of withholding treatment with DAA drugs from inmates diagnosed with HCV violates the Eighth and Fourteenth Amendments and the Americans with Disabilities Act. Injunctions: (1) to formulate and implement an HCV treatment policy that meets the prevailing standard of care, including identifying persons with HCV; (2) to provide members of the class an appropriate and accurate assessment of the level of fibrosis or cirrhosis they have, counseling on drug-drug interactions, and ongoing medical care for complications and symptoms of HCV; and (3) from delaying or denying DAA drug treatment to class members for any nonmedical reason.	ADA and 504 - Prisoner medical treatment

List of Selected ADA Class Action Cases for Systemic Relief				
Case Name (Cite)	Class Certified	Defendants	Injunctive/Declaratory Relief Sought	Category
Stafford v. Carter, No. 117CV00289JMS MJD, 2018 WL 1140388, at *9 (S.D. Ind. Mar. 2, 2018)	"All current and future prisoners in IDOC custody who have been diagnosed, or will be diagnosed, with chronic HCV."	Commissioner of Corrections of Indiana Department of Corrections (IDOC), the Chief Medical Officer for IDOC, and the IDOC's Director of Health Services	Declaratory and injunctive relief	ADA and 504 Jail healthcare access

List of Selected ADA Class Action Cases for Systemic Relief				
Case Name (Cite)	Class Certified	Defendants	Injunctive/Declaratory Relief Sought	Category
A.T. by & through Tillman v. Harder, 298 F. Supp. 3d 391, 404–05, 2018 WL 1635921 (N.D.N.Y. 2018)	Class: "All 16– and 17–year–olds who are now or will be incarcerated at the Broome County Correctional Facility"; Subclass 1: "All 16– and 17–year–olds with disabilities, as defined by the Individuals with Disabilities Education Act, who are now or will be incarcerated at the Broome County Correctional Facility, who are in need of special education and related services"; and Subclass 2: "All 16– and 17–year–olds with psychiatric and/or intellectual disabilities, as defined by the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973, who are now or will be incarcerated at the Broome County Correctional Facility, who are at risk of being placed in disciplinary segregation because of their disability."	Broome County Sheriff, Jail Administrator, and Deputy Jail Administrator	Injunctive relief requiring an end to current solitary confinement practices for juveniles held at the Broome County Jail, an end to the deprivation of education and disability support services attendant to that kind of treatment.[3]	ADA & § 504 Reasonable accommodation IDEA, 8th and 14th Amendments

[3] PI granted: enjoining the imposition of 23-hour disciplinary isolation on juveniles at the jail, pending the final determination of the action. Defendants shall IMMEDIATELY only lock juveniles in their cells for disciplinary purposes if the juvenile poses an immediate threat to the safety or security of the facility and only after less restrictive measures have been employed and found inadequate to address the particular threat at issue;

List of Selected ADA Class Action Cases for Systemic Relief				
Case Name (Cite)	Class Certified	Defendants	Injunctive/Declaratory Relief Sought	Category
S.R., by & through Rosenbauer v. Pennsylvania Dep't of Human Servs., 325 F.R.D. 103, 107 (M.D. Pa. 2018)	"All Pennsylvania children and youth under the age of 21 who, now or in the future, are adjudicated dependent and have diagnosed mental health disabilities."	PA Dept. of Health and Humans Services	Declaration that defendants' actions and omissions violate Title XIX of the Social Security Act, the ADA, and the RA. Injunctive relief requiring Defendants to develop a full array of appropriate Child Welfare and MA services and placements to meet the needs of children with mental illness and behavior health disabilities in the most integrated settings appropriate to their needs.	ADA/504 Community integration, EPSDT

Under no circumstances shall a juvenile be locked in their cell for greater than four hours for disciplinary purposes; if a juvenile remains an immediate threat to the safety and security of the facility after four hours, a psychiatrist shall be consulted and a plan put in place to ensure the juvenile's safe return to the general juvenile population; defendants shall IMMEDIATELY ensure all juveniles have access to at least three hours of educational instruction each day as well as any IDEA-mandated special education and related services; and If a juvenile with a mental health or intellectual disability will potentially lose access to the benefits, services, and programs offered at the facility as a result of the disciplinary process, defendants shall ensure mental health staff will perform an individualized assessment of the juvenile as soon as possible. This assessment shall at minimum include: (a) a review of the individual's mental health needs; (b) a determination regarding whether any reasonable modifications can be made to eliminate future risk; (c) a determination regarding whether the individual with a disability continues to pose a risk; and (d) whether placement in segregation is medically appropriate.

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Lewis v. Cain, 324 F.R.D. 159, 176, 2018 WL 1058118 (M.D. La. 2018)	Class: "All inmates who now, or will be in the future, incarcerated at LSP" Subclass: "All qualified individuals with a disability, as defined by the ADA/RA, who are now, or will be in the future, incarcerated at LSP"	Louisiana Department of Public Safety and Corrections ("DOC"); Warden of the Louisiana State Penitentiary; Assistant Warden of LSP; Secretary of DOC; Medical Director for DOC; the Chief Nursing Officer for DOC; the Medical Director for LSP; the Director of Nursing for the LSP; and an Acute Care Nurse Practitioner at LSP	Injunctive "relief to abate the alleged systemic deficiencies in Defendants' policies and practices that subject all inmates to unreasonable risks of serious harm"	ADA and 504 Jail healthcare access Eighth Amendment prohibition of cruel and unusual punishment

List of Selected ADA Class Action Cases for Systemic Relief				
Case Name (Cite)	Class Certified	Defendants	Injunctive/Declaratory Relief Sought	Category
McBride v. Michigan Dep't of Corr., No. 15-11222, 2017 WL 3085785, at *1 (E.D. Mich. July 20, 2017)	"All deaf and hard of hearing individuals in the custody of the MDOC [Michigan Department of Corrections] (whether now or in the future), who require hearing-related accommodations, including but not limited to interpreters, hearing devices, or other auxiliary aids or services, to communicate effectively and/or to access or participate in programs, services, or activities available to individuals in the custody of the MDOC."	Michigan Department of Corrections and its administrators and wardens	Provide the accommodations that deaf and hearing disabled inmates need to effectively communicate and to participate in MDOC programs, services, and activities.	ADA and 504 - Reasonable accommodation /equal access of deaf inmates
Hizer v. Pulaski Cty., Indiana, No. 3:16-CV-885-JD-MGG, 2017 WL 3977004, at *8 (N.D. Ind. Sept. 11, 2017)	"All persons with mobility impairments or other physical disabilities who access or attempt to access, or who will access or will attempt to access, the Pulaski County Courthouse."	Pulaski County, Indiana	Ensure accessibility of Pulaski County Courthouse.	ADA and 504 - Physical Access

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Case Name (Cite)	Class Certified	Defendants	Injunctive/Declaratory Relief Sought	Category
Jewett v. California Forensic Med. Grp., Inc., No. 213CV0882MCE ACP, 2017 WL 980446, at *10 (E.D. Cal. Mar. 13, 2017), R. & R. adopted sub nom. Jewett v. California Forensic MedicalGroup, Inc., No. 213CV0882MCE ACP, 2017 WL 1356054 (E.D. Cal. Apr. 5, 2017)	"All current and future detainees and prisoners at Shasta County Jail with mobility disabilities who, because of their disabilities, need appropriate accommodations, modifications, services, and and/or physical access in accordance with federal and state disability laws."	Shasta County Sheriff's Department and Shasta County	Declaration that defendants have violated, and continue to violate, the ADA, the Rehabilitation Act, and analogous California state statutes, enjoin defendants from future violations of those laws.	ADA and 504 Physical Access

List of Selected ADA Class Action Cases for Systemic Relief				
Case Name (Cite)	Class Certified	Defendants	Injunctive/Declaratory Relief Sought	Category
Donegan v. Norwood, No. 16-CV-11178, 2017 WL 6569634, at *14 (N.D. Ill. Dec. 21, 2017)	"All persons in the state of Illinois who have been approved by Defendant for in-home shift nursing services when they were Medicaid-eligible children under the age of 21 through the nonwaiver Medicaid program, formerly known as the Nursing and Personal Care Services (NPCS) program, and who are currently receiving such services. This class definition does not include those persons who are enrolled in the State of Illinois' Medically Fragile Technology Dependent (MFTD) Medicaid Waiver program."	Department of Healthcare and Family Services	Injunctive relief such as "mandating that Defendant treat disabled persons aging out of the NPCS program similarly as disabled persons aging out of the MFTD program, by allowing both groups to continue receiving in-home shift nursing services based on medical necessity after reaching the age of 21"	ADA & § 504 Maintenance of community integration
Hoffer v. Jones, 323 F.R.D. 694, 700 (N.D. Fla. 2017)	"All current and future prisoners in the custody of the Florida Department of Corrections who have been diagnosed, or will be diagnosed, with chronic hepatitis C virus (HCV)"	Florida Department of Corrections	Injunctive relief such as ordering Defendant to develop and adhere to a plan to provide direct-acting antiviral medications to all FDC prisoners with chronic HCV, consistent with the standard of care.	ADA and 504 Jail healthcare access

List of Selected ADA Class Action Cases for Systemic Relief				
Case Name (Cite)	Class Certified	Defendants	Injunctive/Declaratory Relief Sought	Category
Dunn v. Dunn, 318 F.R.D. 652, 683–84 (M.D. Al. 2016)	"Any current or future inmate in the physical custody of the Alabama Department of Correction who has a disability as defined in 42 U.S.C. § 12012 and 29 U.S.C. § 705(9)(B), excluding those inmates whose disabilities relate solely to or arise solely from mental disease, illness, or defect."	Commissioner of the Alabama Department of Corrections; Alabama Department of Corrections	Increase accessibility and coordinate removal of physical and communication barriers	ADA and 504 - Physical Access and reasonable accommodation in prisons
O.B. v. Norwood, No. 15 C 10463, 2016 WL 2866132, at *5 (N.D. Ill. May 17, 2016)	"All Medicaid-eligible children under the age of 21 in the State of Illinois who have been approved for in-home shift nursing services by the Defendant, but who are not receiving in-home shift nursing services at the level approved by the Defendant, including children who are enrolled in a Medicaid waiver program, such as the Medically Fragile Technology Dependent (MFTD) Waiver program, and children enrolled in the nonwaiver Medicaid program, commonly known as the Nursing and Personal Care Services (NPCS) program."	Director of Illinois Department of Healthcare and Family Services	Provide in-home shift nursing services, as required by the Medicaid Act.	ADA and 504 Maintenance of community integration Medicaid provision enforcement

List of Selected ADA Class Action Cases for Systemic Relief				
Case Name (Cite)	Class Certified	Defendants	Injunctive/Declaratory Relief Sought	Category
Steward v. Janek, 315 F.R.D. 472, 493 (W.D. Tex. 2016)	"All Medicaid-eligible persons over twenty-one years of age with intellectual or developmental disabilities or a related condition in Texas who currently or will in the future reside in nursing facilities, or who are being, will be, or should be screened for admission to nursing facilities pursuant to 42. U.S.C. § 1396r(e)(7) and 42 C.F.R. § 483.112 et seq."	State of Texas; Executive Commissioner of Texas Health and Human Services Commission; Commissioner of Texas Department of Aging and Disability Services	Compel defendants to reform their PASRR process to comply with federal law, and revise the manner in which they fund and administer care for persons with intellectual and developmental disabilities to avoid needless institutionalization.	ADA and 504 - Community integration
Williams v. Conway, 312 F.R.D. 248, 254 (N.D.N.Y. 2015)	"All present and future deaf and hearing-impaired prisoners of the Onondaga County Justice Center who have been, are, or will be discriminated against, solely on the basis of their disability, in receiving the rights and privileges accorded to all other prisoners."	Onondaga County Sheriff; Onondaga County; Onondaga County Sheriff's Office; Chief Custody Deputy Onondaga County Justice Center; Sergeant Onondaga County Justice Center; Deputy Onondaga County Justice Center	Provide reasonable accommodations to present and future deaf or hearing-impaired inmates housed at the jail.	ADA and 504 - Reasonable accommodation for deaf inmates

List of Selected ADA Class Action Cases for Systemic Relief				
Case Name (Cite)	Class Certified	Defendants	Injunctive/Declaratory Relief Sought	Category
Dunakin v.Quigley, 99 F. Supp. 3d 1297, 1333 (W.D. Wash. 2015)	"All individuals who: (a) are or will be residents of Medicaid-certified, privately-operated nursing facilities in the State of Washington; and (b) who [sic] are Medicaid recipients with an intellectual disability or related condition(s) such that they are eligible to be screened and assessed pursuant to 42 U.S.C. § 1396r(e)(7) and 42 C.F.R. § 483.122 et seq."	Washington Department of Social and Health Services; Washington Developmental Disabilities Administration ; agency officials.	Provide PASRR screening and evaluations and special services for individuals with intellectual disabilities and/or related conditions who are in nursing facilities as well as community placement for such individuals.	ADA and 504 - Community integration
Hernandez v. County of Monterey, 305 F.R.D. 132, 164 (N.D. Ca. 2015	"All adult men and women who are now, or will be in the future, incarcerated in Monterey County Jail." Subclass: "All qualified individuals with a disability, as that term is defined in 42 U.S.C. § 12102, 29 U.S.C. § 705(9)(B), and California Government Code § 12926(j) and (m), and who are now, or will be in the future, incarcerated in Monterey County Jail."	Monterey County, Monterey County Sheriff's Office; and California Forensic Medical Group, Inc. (a private healthcare company contracted by the county to provide jail health services)	Provide adequate medical and mental health care and reasonable accommodation for disabilities	ADA and 504 - Jail healthcare access

List of Selected ADA Class Action Cases for Systemic Relief				
Case Name (Cite)	Class Certified	Defendants	Injunctive/Declaratory Relief Sought	Category
G. F. v. Contra Costa Cnty., No. 13-CV-03667-MEJ, 2015 WL 4606078, at *14 (N.D. Cal. July 30, 2015)	All youth with disabilities as defined under the ADA and the Rehabilitation Act who are currently detained at or who will be detained at the Contra Costa County Juvenile Hall.	Contra Costa County	Declaratory and injunctive relief from Defendants' systematic policies and practices, which Plaintiffs allege violate their civil rights by depriving them of access to education, including special education and related services, as well as subjecting them to room confinement without regard for their disabilities and without appropriate education services	IDEA, ADA, and § 504

List of Selected ADA Class Action Cases for Systemic Relief				
Case Name (Cite)	Class Certified	Defendants	Injunctive/Declaratory Relief Sought	Category
Holmes v. Godinez, 311 F.R.D. 177, 223 (N.D. Ill. Oct. 8, 2015).	"(i) All individuals incarcerated by [Illinois Department of Corrections] currently and in the future; (ii) who IDOC classified as deaf or hard of hearing or who notified IDOC in writing during the Class Period, either personally or through a family member, that he or she was deaf or hard of hearing; and (iii) who require accommodations, including interpreters or other auxiliary aids or services, to communicate effectively and/or to access programs or services available to individuals incarcerated by IDOC during the Class Period."	Director of the Illinois Department of Corrections	Provide accommodations for deaf and hearing disabled offenders.	ADA and 504 - Equal access/ reasonable accommodation for deaf inmates

List of Selected ADA Class Action Cases for Systemic Relief				
Case Name (Cite)	Class Certified	Defendants	Injunctive/Declaratory Relief Sought	Category
Thorpe v. D.C., 303 F.R.D. 120, 135 (D.D.C. 2014) Affd Brown v. D.C., 928 F.3d 1070, 1074 (D.C. Cir. 2019)	All persons with physical disabilities who, now or during the pendency of this lawsuit: (1) receive DC Medicaid-funded long-term care services in a nursing facility for 90 or more consecutive days; (2) are eligible for Medicaid-covered home and community-based long-term care services that would enable them to live in the community; and (3) would prefer to live in the community instead of a nursing facility but need the District of Columbia to provide transition assistance to facilitate their access to long-term care services in the community.	District of Columbia	Declaration that defendants' failure to provide services in the most integrated setting appropriate to their needs violates Title II of the Americans with Disabilities Act and Section 504 of the Rehabilitation Act; Enter a permanent injunction requiring defendants to promptly take such steps as are necessary to serve Named Plaintiffs and class members in the most integrated settings appropriate to their needs	ADA and 504 - Community integration

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Case Name (Cite)	Class Certified	Defendants	Injunctive/Declaratory Relief Sought	Category
N.B. v. Hamos, 26 F. Supp. 3d 756, 776 (N.D. Ill. 2014)	"All Medicaid-eligible children under the age of 21 in the State of Illinois: (1) who have been diagnosed with a mental health or behavioral disorder; and (2) for whom a licensed practitioner of the healing arts has recommended intensive home- and community-based services to correct or ameliorate their disorders."	Director of the Illinois Department of Healthcare and Family Services	Provide home and community-based children's mental health services in the most integrated setting.	ADA and 504 - Community services/ integration

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Case Name (Cite)	Class Certified	Defendants	Injunctive/Declaratory Relief Sought	Category
Kenneth R. ex rel. Tri-Cnty CAP, Inc./GS v. Hassan, 293 F.R.D. 254, 271 (D.N.H. 2013)	"All persons with serious mental illness who are unnecessarily institutionalized in New Hampshire Hospital or Glencliff or who are at serious risk of unnecessary institutionalization in these facilities. At risk of institutionalization means persons who, within a two year period: (1) had multiple hospitalizations; (2) used crisis or emergency room services for psychiatric reasons; (3) had criminal justice involvement as a result of their mental illness; or (4) were unable to access needed community services."	Governor of NH; Commissioner of the NH Dept of Health and Human Services; Associate Commissioner of the NH Dept of Health and Human Services, Community Based Care Services; Deputy Commissioner, NH Dept of Health and Human Services, Direct Programs/ Operations; Administrator, NH Bureau of Behavioral Health; State of NH.	Provide an adequate array of community based treatments.	ADA and 504 - Community integration

List of Selected ADA Class Action Cases for Systemic Relief				
Case Name (Cite)	Class Certified	Defendants	Injunctive/Declaratory Relief Sought	Category
Toney-Dick v. Doar, No. 12 Civ.9162 (KBF), 2013 WL 5295221 at *13 (S.D.N.Y. Sept. 16, 2013)	One subclass of "disabled individuals who were eligible to apply for benefits from the Sandy D–SNAP Program" and a second subclass of "individuals who may be eligible to apply for benefits from a future D–SNAP program and who will need reasonable accommodations because of a disability (or disabilities)."	City of New Human Resources Administration and its Commissioner; New York State Office of Temporary and Disability Assistance and its Commissioner; and United States Department of Agriculture and its Secretary	Stop defendants from continuing to implement their emergency S-NAP benefits in a manner that discriminates against people with disabilities.	ADA and 504 - Reasonable accommodation in benefit application process
Brooklyn Ctr for Indep. of the Disabled v. Bloomberg, 290 F.R.D. 409, 420–21 (S.D.N.Y. 2012)	"All people with disabilities, as defined by the Americans with Disabilities Act, who are within the City of New York and the jurisdiction served by the City of New York's emergency preparedness programs and services."	City of New York and its Mayor	Adopt and maintain emergency preparedness procedures and policies that are accessible to people with disabilities.	ADA - Equal access

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Case Name (Cite)	Class Certified	Defendants	Injunctive/Declaratory Relief Sought	Category
Henderson v. Thomas, 289 F.R.D. 506, 512 (M.D. Ala. 2012)	"All present and future prisoners diagnosed with HIV in the custody of the Alabama Department of Corrections."	Commissioner, Alabama DOC; Warden of Limestone Correctional Facility; Wardens of Julia Tutwiler Prison for Women, Decatur Work Release/Community Work Center, and Montgomery Women's Facility	Integrate prisoners with HIV into the general population and make other relevant changes to policies.	ADA and 504 - Prison integration
Lane v. Kitzhaber, 283 F.R.D. 587, 602 (D. Or. 2012)	"All individuals in Oregon with intellectual or developmental disabilities who are in, or who have been referred to, sheltered workshops" and "who are qualified for supported employment services"	Governor of Oregon; Director of the Oregon Dept of Human Services; Administrator of the Office of Developmental Disability Services; Administrator of Voc. Rehab Services	Provide integrated supported employment for persons with intellectual and developmental disabilities.	ADA and 504 - Supported employment

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Case Name (Cite)	Class Certified	Defendants	Injunctive/Declaratory Relief Sought	Category
Oster v. Lightbourne, No. C 09-4668 CW, 2012 WL 685808 at *6 (N.D. Cal. Mar. 2, 2012), order corrected, No. C 09-4668 CW, 2012 WL 1595102 (N.D. Cal. May 4, 2012)	Class A: "All recipients of IHSS in the State of California whose IHSS services will be limited, cut, or terminated under the provisions of ABX4 4, and all applicants to IHSS in the State of California who would have been eligible for IHSS services but who are either not eligible, or are eligible for fewer services, as a result of ABX4 4." Class B: "All recipients of IHSS in the State of California who have received or will receive notices of action that include a reduction of IHSS hours based on SB 73 or Defendants' implementation of SB 73, including future applicants for IHSS services whose notice of action will reflect reduced IHSS hours as a result of SB 73 or Defendants' implementation of SB 73." Three subclasses were also certified.	Director of the California Department of Social Services; Director of the California Department of Health Care Services; California Department of Health Care Services; and California Department of Social Services	Restore "In-Home Supportive Services."	ADA and 504-Maintenance of community integration

List of Selected ADA Class Action Cases for Systemic Relief				
Case Name (Cite)	Class Certified	Defendants	Injunctive/Declaratory Relief Sought	Category
Gray v. Golden Gate Nat. Recreational Area, 279 F.R.D. 501, 522 (N.D. Cal. 2011)	"All persons with mobility and/or vision disabilities who are being denied programmatic access under the Rehabilitation Act of 1973 due to barriers at park sites owned and/or maintained by Golden Gate National Recreation Area. For the purpose of class certification, persons with mobility disabilities are those who use wheelchairs, scooters, crutches, walkers, canes, or similar devices to assist their navigation. For the purpose of class certification, persons with vision disabilities are those who due to a vision impairment use canes or service animals for navigation."	Golden Gate National Recreational Area and National Park Service	Remove access barriers that violate the ADA and Section 504 of the Rehabilitation Act for people with mobility and vision disabilities.	ADA and 504 - Physical access

List of Selected ADA Class Action Cases for Systemic Relief				
Case Name (Cite)	Class Certified	Defendants	Injunctive/Declaratory Relief Sought	Category
Pashby v. Cansler, 279 F.R.D. 347, 354 (E.D.N.C. 2011), aff'd on other grounds, 709 F.3d 307, 319 (4th Cir. 2013)	"All current or future North Carolina Medicaid recipients age 21 or older who have, or will have, coverage of PCS denied, delayed, interrupted, terminated, or reduced by Defendant directly or through his agents or assigns as a result of the new eligibility requirements for in-home PCS and unlawful policies contained in ICHA Policy 3E."	Secretary of the North Carolina Department of Health and Human Services	Prohibit the implementation of the In Home Care for Adults Clinical Policy 3E, which terminates eligibility for in-home care for Medicaid recipients who were eligible for such care prior to the new policy.	ADA Maintenance of community integration Medicaid eligibility

List of Selected ADA Class Action Cases for Systemic Relief				
Case Name (Cite)	Class Certified	Defendants	Injunctive/Declaratory Relief Sought	Category
Pitts v. Greenstein, No. CIV.A. 10-635-JJB-SR, 2011 WL 2193398 at *7 (M.D. La. June 6, 2011)	"Louisiana residents with disabilities who are recipients or prospective recipients of Medicaid-funded services through the LT–PCS program; who desire to continue to reside in the community instead of in a nursing facility; who can reside in the community with appropriate Medicaid-funded LT–PCS services; and who are at risk of being forced to enter a nursing home because Defendants plan to reduce the level of community-based services."	Louisiana Department of Health and Hospitals and its Secretary	Stop the reduction of the maximum number of Medicaid Personal Care Services (PCS) hours available each week or risk the institutionalization of individuals with disabilities.	ADA and 504 - Maintenance of community integration

List of Selected ADA Class Action Cases for Systemic Relief				
Case Name (Cite)	Class Certified	Defendants	Injunctive/Declaratory Relief Sought	Category
Van Meter v. Harvey, 272 F.R.D. 274, 284 (D. Me. 2011)	"Maine residents who currently are or in the future will be: (1) eligible for and enrolled in MaineCare, (2) age 21 or older, (3) have a related condition as defined at 42C.F.R. § 435.1010, other than autism, and who do not have a diagnosis of Alzheimer's or dementia, and (4) who are or should be screened for admission to nursing facilities pursuant to 42 U.S.C. § 1396r(e)(7) and 42 C.F.R. §483.112 et seq."	Commissioner of the Maine Department of Health and Human Services	Provide integrated community living arrangements, and, while in nursing facilities, specialized services sufficient to constitute active treatment.	ADA and 504 - Community integration and active treatment Medicaid

List of Selected ADA Class Action Cases for Systemic Relief				
Case Name (Cite)	Class Certified	Defendants	Injunctive/Declaratory Relief Sought	Category
Connecticut Office of Protection and Advocacy for Persons with Disabilities v. Connecticut, 706 F. Supp. 2d 266, 289 (D. Conn. 2010)	"Individuals … who: (1) have a mental illness or have a record of such an illness or have been regarded as having such an illness and therefore have a disability within the meaning of 42 U.S.C. § 12102(2); (2) with appropriate supports and service, could live in the community; and (3) are institutionalized in either Chelsea Place Care Center in Hartford, Bidwell Care Center in Manchester, or West Rock Health Care Center in New Haven (collectively, the "Nursing Homes"), or are at risk of entry into these facilities."	State of Connecticut; Commissioner of the Conn. Dept. of Social Services; Commissioner of the Conn. Dept. of Mental Health and Addiction Services; and Commissioner of the Conn. Dept. of Public Health	Provide community-based services and supports to class members to enable them to relocate from nursing facilities to more integrated community settings and inform class members of their options regarding community-based services.	ADA and 504 - Community integration

List of Selected ADA Class Action Cases for Systemic Relief				
Case Name (Cite)	Class Certified	Defendants	Injunctive/Declaratory Relief Sought	Category
Dominguez v. Schwarzenegger, 270 F.R.D. 477, 488 (N.D. Cal. 2010)	"All In–Home Supportive Services consumers residing in Alameda, Calaveras, Contra Costa, Fresno, Marin, Mendocino, Monterey, Napa, Placer, Riverside, Sacramento, San Benito, San Francisco, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Solano, Sonoma and Yolo counties." Sub-class: "All In–Home Supportive Services consumers residing in Fresno County."	Govnr. of CA; Dir. of the CA Dept. of Social Services; Dir. of CA Dept. of Health Care Services; CA State Controller; Fresno County; Fresno County In-Home Supportive Services Public Authority	Prevent state's reduction of its contribution to wages counties paid to "In-Home Supportive Services" providers.	ADA and 504 - Maintenance of community integration

List of Selected ADA Class Action Cases for Systemic Relief				
Case Name (Cite)	Class Certified	Defendants	Injunctive/Declaratory Relief Sought	Category
Kirola v. City & Cty. of San Francisco, No. 407CV03685SBA EMC, 2010 WL 11488931, at *4 (N.D. Cal. June 7, 2010)	"All persons with mobility disabilities who are allegedly being denied access under Title II of the [ADA] of 1990, Section 504 of the Rehabilitation Act of 1973, California Government Code Section 11135, et seq., California Civil Code § 51 et seq., and California Civil Code § 54 et seq. due to disability access barriers to the following programs, services, activities and facilities owned, operated and/or maintained by the City and County of San Francisco: parks, libraries, swimming pools, and curb ramps, sidewalks, cross-walks, and any other outdoor designated pedestrian walkways in the City and County of San Francisco."	City and County of San Francisco; Mayor of San Francisco; President of the Board of Supervisors; members of the Board of Supervisors	Remove disability access barriers in programs, services, activities, and facilities owned, operated, or maintained by the City and County of San Francisco.	ADA and 504 - Physical access

List of Selected ADA Class Action Cases for Systemic Relief				
Case Name (Cite)	Class Certified	Defendants	Injunctive/Declaratory Relief Sought	Category
Colbert v. Blagojevich, No. 07-C-4737, 2008 WL 4442597, at *10 (N.D. Ill. Sept. 29, 2008)	"All Medicaid-eligible adults with disabilities in Cook County, Illinois, who are being, or may in the future be, unnecessarily confined to nursing facilities and who, with appropriate supports and services, may be able to live in a community setting."	Governor of Illinois; Secretary of the Illinois DHS; Dir. of Illinois Dept. of Healthcare and Family Services; and Director of the Illinois DPH	Develop community-based services and supports to enable individuals in nursing facilities in Cook County to move to more appropriate and integrated settings.	ADA and 504 - Community integration
Long v. Benson, No. 4:08CV26-RH/WCS, 2008 WL 4571904, at *3 (N.D. Fla. Oct. 14, 2008)	"Any Florida Medicaid-eligible adult who, at any time while this litigation has been pending, has resided in a nursing home that receives Medicaid funding, and who could and would reside in the community with appropriate community based services."	Secretary of the Florida Agency for Health Care Administration ; Secretary of the Florida Department of Elder Affairs	Provide community settings and appropriate community-based services.	ADA and 504 - Community integration

List of Selected ADA Class Action Cases for Systemic Relief				
Case Name (Cite)	Class Certified	Defendants	Injunctive/Declaratory Relief Sought	Category
Bzdawka v. Milwaukee County, 238 F.R.D. 469, 477 (E.D. Wis. 2006)	"Disabled Milwaukee County residents who are now or will in the future be eligible to reside in a Family Care [adult family home] or [community based residential facility]."	Milwaukee County; Wisconsin Department of Health and Family Services; Secretary for Department of Health and Family Services	Increase compensation for "Homes for Independent Living" and other providers of services to "Family Care" enrollees.	ADA and 504 - Maintenance of community integration
Lovely H. v. Eggleston, 235 F.R.D. 248, 263 (S.D.N.Y. 2006)	"Recipients of public assistance, food stamps and/or Medicaid who have received or will receive a notice from the New York City Human Resources Administration involuntarily transferring their case to one of three hub centers in Manhattan, the Bronx or Brooklyn in connection with the WeCARE program." Subclass: "[M]ain class members who (a) have a physical or mental impairment that substantially limits one or more major life activities within the meaning of the Americans with	Administrator of New York City Human Resources Administration	Provide integrated benefits offices and make reasonable modifications to the City of New York's public assistance, food stamps and other public benefits policies.	ADA and 504 - Reasonable accommodation in benefits program

List of Selected ADA Class Action Cases for Systemic Relief				
Case Name (Cite)	Class Certified	Defendants	Injunctive/Declaratory Relief Sought	Category
	Disabilities Act of 1990, (b) have a record of such an impairment, or (c) are regarded as having such an impairment."			
Williams v. Blagojevich, No. 05 C 4673, 2006 WL 3332844, at *5 (N.D. Ill. Nov. 13, 2006)	"Illinois residents who: (a) have a mental illness; (b) are institutionalized in a privately owned Institutions for Mental Diseases [("IMD")]; and (c) with appropriate supports and services may be able to live in an integrated community setting."	Governor of IL; Sec. of IL-DHS; Dir. of the Div. of Mental Health of IL DHS; Dir. of the IL DPH; Dir. of the IL-DHFS	Provide community services sufficient to permit IMD residents to reside in the most integrated setting appropriate.	ADA and 504-Community integration
M.A.C. v. Betit, 284 F. Supp. 2d 1298, 1304 (D. Utah, 2003)	"All current and future Medicaid-eligible individuals residing in Utah who, because of their developmental disabilities or mental retardation have or will be determined to be eligible for, and are or will be on the waiting list to receive, services under the HCBS waiver by the Division of Services for People with Disabilities."	The Utah Dept. of Health and its Executive Director; Div. of Health Care Financing of Utah Dept. of Health and its Dir.; Div. of Services for People with Disabilities of Utah DHS and its Director	Expand home and community-based services to meet class needs.	ADA Medicaid service expansion/ maintenance of community integration

List of Selected ADA Class Action Cases for Systemic Relief				
Case Name (Cite)	Class Certified	Defendants	Injunctive/Declaratory Relief Sought	Category
Alexander A. ex rel. Barr v. Novello, 210 F.R.D. 27, 38 (E.D.N.Y. 2002)	"All New York State children with psychiatric disabilities who have been or will be found by defendants to be appropriate for placement in a Residential Treatment Facility and who have not been or will not be provided with such placement with reasonable promptness."	Commissioner of the NY State Department of Health; Commissioner of the NY State Office of Mental Health	Expand assessment for and provision of community services.	ADA and 504 - Community integration / reasonable promptness

List of Selected ADA Class Action Cases for Systemic Relief				
Case Name (Cite)	Class Certified	Defendants	Injunctive/Declaratory Relief Sought	Category
Rolland v. Cellucci, No. 98-30208-KPN, 1999 WL 34815562, at *9 (D. Mass. Feb. 2, 1999)	"All adults with mental retardation and other developmental disabilities in Massachusetts who reside in nursing facilities, who resided in nursing facilities on or after October 29, 1998, or who are or should be screened for admission to nursing facilities pursuant to 42 U.S.C. § 1396r(e)(7) and 42 C.F.R. § 483.112 et seq."	Governor of Massachusetts; Secretary of the Executive Office of Administration and Finance; Secretary of the Executive Office of HHS; Commissioner of the Division of Medical Assistance; Commissioner of DMR; Commissioner of the MA Rehabilitation Commission; Commissioner of DPH; and the Director of Region 1 for the Department of Mental Retardation.	Provide integrated community living arrangements, and, while in nursing facilities, specialized services sufficient to constitute active treatment.	ADA and 504 - Community integration / active treatment in NFs

CASE NO. 25-1239

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

JONATHAN R., MINOR, by NEXT FRIEND, SARAH DIXON, *ET AL.*,

Plaintiffs-Appellants,

v.

PATRICK MORRISEY, IN HIS OFFICIAL CAPACITY AS GOVERNOR OF WEST VIRGINIA, *ET AL.*,

Defendants-Appellees.

On Appeal From The United States District Court
For The Southern District of West Virginia
Case No. 3:19-cv-00710

ADDENDUM A TO THE BRIEF OF *AMICI CURIAE*

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ADDENDUM A.1 TO THE BRIEF OF *AMICI CURIAE*

ATTACHMENT A

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE

Amanda D., et al., and others similarly situated, Plaintiffs, v. Margaret W. Hassan, Governor, et al., Defendants.	Civ. No. 1:12-cv-53-SM
United States of America, Plaintiff-Intervenor, v. State of New Hampshire, Defendant.	

ORDER FOR FINAL APPROVAL OF PROPOSED SETTLEMENT AND ENTRY OF JUDGMENT

This Court, having read and reviewed the Parties' Joint Motion for Final Approval of Proposed Settlement, the Parties' separately-filed memoranda of law in support of the Joint Motion, the Assented-to Motion for Attorneys' Fees and Costs and supporting memorandum of law, and any objections or comments submitted to the Court on the Proposed Settlement Agreement, hereby approves the Settlement Agreement and enters Judgment as follows:

1. On January 3, 2014, the Court granted preliminary approval of the Parties' Proposed Settlement Agreement.

2. Any member of the class that wished to file an objection or comments was required to do so on or before January 31, 2014.

3. A hearing for final approval of the proposed Settlement Agreement was held on February 12, 2014.

4. The Court has considered submitted objections and comments to the Proposed Settlement Agreement.

5. After a full and comprehensive review of the Proposed Settlement Agreement, the Parties' memoranda of law in support of the Agreement, and any objections/comments raised, this Court finds that the Settlement Agreement is fair, reasonable, and in the best interests of the class.

6. Consistent with the terms of the Settlement Agreement, the Court's class certification order of September 17, 2013 (Doc. 90) is hereby modified to include all claims brought pursuant to the Nursing Home Reform Act, 42 U.S.C. §§ 1396r(b)(3)(F) and 1396r(e)(7).

7. This Court grants the Parties' Joint Motion for Final Approval of the Class Action Settlement Agreement, approves the Settlement Agreement, and enters it as an order of the Court, consistent with the terms of the Settlement Agreement. The Court will also sign the Settlement Agreement itself.

8. The Court incorporates the Settlement Agreement into this Order and retains jurisdiction over this matter, consistent with terms of the Settlement Agreement.

9. Further, the Court has reviewed Plaintiffs' Assented-to Motion for Attorney's Fees and Costs and accompanying memorandum of law, grants the Plaintiffs' motion, and approves the agreed upon attorneys' fees and costs set forth in the Settlement Agreement.

Date:_____

_____
Hon. Steven J. McAuliffe
United States District Judge

ADDENDUM A.2 TO THE BRIEF OF *AMICI CURIAE*

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA
CENTRAL DIVISION

C.A. through their next friend P.A.; C.B. through his next friend P.B.; and C.C. through his next friend P.C., for themselves and those similarly situated, Plaintiffs, vs. KELLY GARCIA, in her official capacity as Director of the Department of Health and Human Services, Defendant.	No. 4:23-cv-00009-SHL-HCA **ORDER GRANTING FINAL APPROVAL OF CLASS ACTION SETTLEMENT AND RELATED RELIEF**

Plaintiffs—three Medicaid-eligible children—brought class action claims alleging that the Iowa Department of Health and Human Services failed to provide them with adequate mental and behavioral health treatment. After litigation and extensive settlement discussions, the parties reached a Settlement Agreement to resolve the case on a class-wide basis, which the Court preliminarily approved. The parties now seek final approval of the Settlement Agreement and related relief. (ECF 87.) The Court: (a) GRANTS final approval of the Settlement Agreement; (b) GRANTS Plaintiffs' request for reimbursement by Defendant of their reasonable attorneys' fees and costs in the negotiated amount; (c) GRANTS the parties' request to incorporate by reference the terms of the Settlement Agreement into this Order in the form of injunctive relief, over which the Court will retain jurisdiction; and (d) otherwise DISMISSES the action.

Court approval is required for a class-wide settlement. Fed. R. Civ. P. 23(e). The approval process involves two stages. First, the Court conducts preliminary review of the settlement agreement. *Id*. If the Court concludes it likely will approve the agreement, it must "direct notice [of the settlement] in a reasonable manner to all class members who would be bound by the proposal." *Id.* Second, after notice has been provided, and "[i]f the proposal would bind class

members," the Court must hold a final approval hearing to determine whether the agreement is "fair, reasonable, and adequate" under factors set forth in Fed. R. Civ. P. 23(e)(2).

"A settlement agreement is 'presumptively valid.'" *In re Uponor, Inc., F1807 Plumbing Fittings Prods. Liab. Litig.*, 716 F.3d 1057, 1063 (8th Cir. 2013) (quoting *Little Rock Sch. Dist. v. Pulaski Cnty. Special Sch. Dist. No. 1,* 921 F.2d 1371, 1391 (8th Cir.1990)). However, under Fed. R. Civ. P. 23(e), "the district court acts as a fiduciary, serving as a guardian of the rights of absent class members." *In re Wireless Tel. Fed. Cost Recovery Fees Litig.*, 396 F.3d 922, 932 (8th Cir. 2005). In determining whether to approve a class settlement, the Court must consider the factors set forth in Fed. R. Civ. P. 23(e)(2), which include whether:

> (A) the class representatives and class counsel have adequately represented the class;
>
> (B) the proposal was negotiated at arm's length;
>
> (C) the relief provided for the class is adequate, taking into account:
>
> > (i) the costs, risks, and delay of trial and appeal;
> >
> > (ii) the effectiveness of any proposed method of distributing relief to the class, including the method of processing class member claims;
> >
> > (iii) the terms of any proposed award of attorney's fees, including timing of payment; and
> >
> > (iv) the agreement required to be identified under Rule 23(e)(3); and
>
> (D) the proposal treats class members equitably relative to each other.

Id.

In the course of evaluating these factors, the Eighth Circuit has directed district courts to consider: "(1) the merits of the plaintiff's case weighed against the terms of the settlement, (2) the defendant's financial condition, (3) the complexity and expense of further litigation, and (4) the amount of opposition to the settlement." *Marshall v. Nat'l Football League*, 787 F.3d 502, 508 (8th Cir. 2015) (quoting *In re Uponor*, 716 F.3d at 1063). "The single most important factor in determining whether a settlement is fair, reasonable, and adequate is a balancing of the strength of the plaintiff's case against the terms of the settlement." *Id.* (quoting *Van Horn v. Trickey*, 840 F.2d 604, 607 (8th Cir. 1988)).

The Court has considered the Rule 23(e)(2) factors. First, and most importantly, the Court is satisfied the settlement is "fair, reasonable, and adequate" given the substantial and meaningful

relief it awards to class members. The Settlement Agreement requires the statewide development and delivery of four key services (known as "Relevant Services") to eligible Iowans and incorporates an Implementation Plan that sets forth strategies and timelines for rolling out those Services. The Settlement Agreement should expand provider capacity and ensure the delivery of Relevant Services in the least restrictive setting, while also mandating standardized screening and assessment tools to determine eligibility and monitor performance. Both sides believe the Settlement Agreement will significantly improve outcomes for Medicaid-eligible Iowa children and youth with serious mental health needs.

The remaining factors reinforce why approval is appropriate. The parties negotiated at arm's length; indeed, they spent more than twelve months in settlement discussions, aided by now-retired United States Magistrate Judge Ross A. Walters.[1] During those negotiations, both sides were represented by experienced counsel who are familiar with both the subject matter of this case and how to litigate complex cases generally. To that end, there can be no doubt but that both sides were motivated to achieve a fair and reasonable agreement. On Plaintiffs' side, their counsel consists largely of attorneys who have devoted their careers to trying to ensure access to health care for vulnerable segments of the population. Their work exemplifies the highest calling of the legal profession. Similarly, on the defense side, the State had legitimate defenses that it could have pursued. The fact that it chose instead to negotiate settlement shows that its primary motivation was not to "win" this particular case, but rather to achieve a positive outcome for the State and its citizens. This is strong leadership.

The point is that the Settlement Agreement is clearly "not the product of fraud or collusion," but rather "is fair, adequate, and reasonable to all concerned." *Marshall v. Nat'l Football League*, 787 F.3d 502, 509 (8th Cir. 2015). The alternative to the Settlement Agreement would be ongoing litigation, which likely would take years (counting trial and appeal), with neither

[1] Although primary credit for the settlement must go to the parties, who worked together in good faith, the Court would be remiss not to emphasize the contributions of Judge Walters, who appears to have devoted dozens of hours to settlement conferences, phone calls, and other communications over many months to help the parties reach agreement. Effective the day of the parties' interim agreement—September 30, 2023—Judge Walters retired as a federal judge after more than twenty-five years of service. It is difficult to imagine a more fitting send-off than for Judge Walters, on his last official day, to have successfully mediated a settlement agreement on a matter of statewide importance. He surely handled this matter with the same combination of thoughtfulness, skill, integrity, and professionalism that characterized his entire judicial career.

side guaranteed to win. In these circumstances, the benefits of the Settlement Agreement outweigh the complexity, time, uncertainty, and cost of further litigation.

The parties provided reasonable notice of the Settlement Agreement in the manner directed by the Court, including public postings and targeted distributions to agencies and organizations likely to be in contact with class members or their families. The parties did not receive any objections from class members, nor did anyone request to speak at the final approval hearing. This, again, demonstrates the fairness and reasonableness of the Settlement Agreement.

The Court further concludes that the negotiated attorneys' fees are reasonable and should be awarded in the amount of $1,950,000 for past work plus up to $160,000 per year for fees and costs incurred in future work monitoring and validating compliance with the Settlement Agreement. Plaintiffs' counsel includes attorneys with non-profit organizations and in private practice. Collectively, they have dozens (if not hundreds) of years of experience in handling highly specialized cases like this one relating to the availability of health care services. Prior to filing this case, they report that they spent years investigating concerns about the availability and adequacy of mental health services for children in Iowa. Since filing, Plaintiffs' counsel has devoted thousands of hours to litigating the case, negotiating the settlement, and engaging in related research and investigation. Given the highly specialized nature and complexity of the case, the agreed-upon fee award is reasonable and satisfies the requirements of Fed. R. Civ. P. 23(h) and 42 U.S.C. § 1988.

Finally, the Court incorporates the terms of the Settlement Agreement (a copy of which is attached hereto as Exhibit A) in the form of injunctive relief and agrees to retain jurisdiction to enforce its terms. *See Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 381 (1994); *Franklin v. Kinsley*, No. 5:17-CV-581-FL, 2024 WL 2926184, at *1 (E.D. N.C. June 10, 2024). In all other respects, the case is DISMISSED and will be administratively closed.

IT IS SO ORDERED.

Dated: May 7, 2025.

STEPHEN H. LOCHER
U.S. DISTRICT JUDGE

SETTLEMENT AGREEMENT

I. PURPOSE AND OBJECTIVES

1. The purpose of this Settlement Agreement (the "Agreement") is to ensure that Medicaid-eligible children in the State of Iowa under the age of twenty-one who have been determined by a licensed practitioner of the healing arts to have a serious emotional disturbance and for whom there is an assessment that intensive home and community-based services are needed to correct or ameliorate their condition, receive such services pursuant to Title XIX of the Social Security Act, and specifically the Early Periodic Screening, Diagnosis, and Treatment (EPSDT) provisions of the Medicaid Act, 42 U.S.C. §§ 1396d(r)(5), 1396a(a)(10)(A), 1396a(a)(43) and 1396d(a)(4)(B); Title II of the Americans with Disabilities Act (ADA), 42 U.S.C. § 12132, 28 C.F.R. § 35.130; and Section 504 of the Rehabilitation Act, 29 U.S.C. § 794, 45 C.F.R. § 84.3 (Section 504).

2. The specific objective of this Agreement is the development and delivery of the intensive home and community-based mental health services defined in Appendix A of this Agreement to children in the Class statewide, as medically necessary, and consistent with the Parties' shared Goals and Principles described in Appendix B of this Agreement.

3. This Agreement includes three core components: goals and principles, commitments, and exit criteria. The goals are intended to provide structure and guidance for planning, implementation, and sustainability; aid in interpreting the meaning and purpose of the commitments and exit criteria; and guide future development of the service delivery system. The commitments are the actions that Defendant will take to implement the Agreement and achieve its objectives and intended results. Defendant will meet all of the commitments as set forth herein, and as further described in the attached Appendices and Amended Implementation Plan, during the pendency of this case. The exit criteria are the sole objective measures that, when accomplished, determine whether Defendant is in substantial compliance with the terms of this Settlement Agreement such that the case will then be dismissed.

II. RECITALS

4. Plaintiffs commenced this lawsuit, entitled *C.A. v. Garcia* (Case No. 4:23-cv-00009-SHL-HCA, assigned to United States District Judge Stephen H. Locher), on January 6, 2023, seeking

declaratory and injunctive relief against Defendant Kelly Garcia**,** in her official capacity as Director of the Iowa Department of Health and Human Services (Iowa HHS). (ECF No. 1).

5. Defendant filed a partial motion to dismiss on February 13, 2023. (ECF No. 22). The Court denied this motion on May 15, 2023. (ECF No. 39). The Parties exchanged initial disclosures.

6. On June 27, 2023, the Parties jointly moved the Court for a stay of the litigation in order to proceed with court-sponsored mediation. (ECF No. 47). Between August 11 and September 15, 2023, the Parties engaged in settlement negotiations mediated by the Honorable Judge Walters.

7. On October 2, 2023, the Parties entered into an Interim Settlement Agreement. (ECF No. 63). The Interim Settlement Agreement was designed to establish a structure and process for the Parties to negotiate the terms of a Final Settlement Agreement.

8. The Court approved the Interim Settlement on October 12, 2023, certified the case as a class action, and approved a class of "all Medicaid-eligible children in the State of Iowa under the age of twenty-one, (i) who have been determined by a licensed practitioner of the healing arts as having a serious emotional disturbance, not attributable to an intellectual or developmental disability, and (ii) for whom there is an assessment that intensive home and community-based services are needed to correct or ameliorate their condition" (the "Class" or "Class Members"). (ECF No. 65).

9. Between October 2, 2023 and the present, the Parties engaged in extensive negotiations regarding a Final Settlement Agreement and the development of an incorporated Amended Implementation Plan (attached as Appendix C).

10. The Parties recognize that this litigation involves legal issues that may take a prolonged time to fully litigate and resolve, and further recognize that continued litigation would be expensive, lengthy, and time consuming.

11. The Parties agree that the best interests of the Class will be substantially advanced by the settlement of the litigation based on the commitments reflected in this Agreement, rather than by a trial on the merits.

12. The Parties share a mutual interest in seeing that intensive home and community-based mental health services are delivered to members of the Class, consistent with state and federal law.

Nothing in this Agreement is intended to, nor does it, impair the rights of any child to receive EPSDT services as mandated by state and federal law.

13. The Parties wish to enter into a settlement agreement as fully set forth herein.

III. GOALS & PRINCIPLES

14. Defendant agrees to adhere to the Goals and Principles of the Agreement, as set forth in Appendix B, which will guide and inform the implementation of this Settlement Agreement.

IV. COMMITMENTS

The Parties agree as follows:

A. The Relevant Services

15. Intensive Home and Community-Based Services. Defendant will provide the following EPSDT-covered mental or behavioral health services to members of the Class who require them: (1) Intensive Care Coordination (ICC), (2) Intensive In-Home and Community Therapeutic Services (IHCTS), and (3) Mobile Crisis Intervention and Stabilization Services (MCIS). These services are defined in Appendix A of this Agreement.

16. Waiver Services. Defendant will provide additional Waiver Services, in conjunction with covered EPSDT services, to support members of the Class, help maintain them in their homes and communities, and avoid higher levels of care and out-of-home placements. These services are defined in Appendix A of this Agreement.

17. Service Definitions. Together, the Intensive Home and Community-Based Services and Waiver Services will be referred to as the "Relevant Services." Any services delivered pursuant to this Agreement will conform to the definitions laid out in Appendix A.

18. Eligibility. Defendant will utilize a standardized assessment process or processes, described in Paragraph 20 below, to assess putative Class Members' eligibility for the Relevant Services and to ensure consistency in access. Any member of the Class who has been determined eligible for the Relevant Services will be entitled to such services under the Settlement.

B. The Amended Implementation Plan

19. Defendant will execute the commitments and processes described in the Amended Implementation Plan, attached as Appendix C. Pursuant to the Amended Implementation Plan, Defendant will take the steps described therein to (a) ensure that the Relevant Services are available statewide and provided to all Class Members who meet the eligibility criteria; (b) ensure that Class Members eligible for the Relevant Services receive the full range of necessary mental or behavioral health services described in Appendix A; (c) utilize a standardized assessment tool and process(es) to ensure consistency in access to the Relevant Services; (d) improve and develop provider capacity and network adequacy to ensure access to all necessary Relevant Services for Class Members, including through oversight of the Managed Care Organizations (MCOs); (e) develop and employ a quality improvement and accountability framework to ensure the continued delivery and quality of the Relevant Services; and (f) develop and maintain a public data reporting mechanism regarding delivery of the Relevant Services.

C. Eligibility Criteria

20. As described in the Amended Implementation Plan, Defendant will identify and implement a standardized assessment process, or processes, to determine eligibility for the Relevant Services. By July 2026, Defendant will identify (a) an appropriate assessment tool(s); and (b) eligibility criteria. The final assessment tool(s), processes, and eligibility criteria will be subject to consent by the Plaintiffs and approval by the Independent Monitor.

21. The Eligibility Criteria will provide that, notwithstanding any other eligibility requirements, a Class Member may be eligible for any of the Relevant Services when a licensed practitioner of the healing arts has determined the service is needed to correct or ameliorate a behavioral health condition. Although an assessment tool may be used in screening eligibility, assessment scores will not be used as the sole basis for excluding a Class Member from receiving any Relevant Service when such Service has otherwise been found necessary to correct or ameliorate a behavioral health condition.

D. Independent Monitor

22. Defendant and Plaintiffs will choose a mutually agreeable Independent Monitor (the "Monitor"), who has substantial experience in the field of Medicaid and children's mental and behavioral health services, to support and evaluate the Department's progress toward implementing the requirements of this Agreement and the Amended Implementation Plan, and determine and validate whether the Department has complied with the requirements of this Agreement. Appointment of an agreed upon monitor is subject to the Court's approval. In the event the Independent Monitor resigns, becomes otherwise unavailable, or the Parties agree to retain another Independent Monitor, the Parties will work together to identify and agree on a replacement as soon as practicable. If the Parties cannot agree on an Independent Monitor, or a replacement, the Parties will proceed under the dispute resolution process described below.

23. On or before the 45th day after the date of the Monitor's appointment, the Monitor shall provide a Monitoring Plan to the Parties identifying the methodology that will be used to evaluate the commitments identified in this Agreement, the cadence of the methodology, the monitoring tools that will be used, and an explanation of how the methodology will measure compliance.

24. The Monitor will be authorized to conduct factual investigation and verification of Defendant's data and documentation in order to issue public reports on Defendant's performance under this Agreement and attached Amended Implementation Plan. These reports will be issued annually. The first monitoring report will be issued within eighteen months of the Court's final approval of this Agreement. At the end of a reporting period, the Monitor will provide a confidential draft report to the Parties, who will have twenty-one (21) days to submit comments to the Monitor on the draft before the report is filed with the Court. The final report will be filed with the Court within twenty-one (21) days of receiving the Parties' comments. The final report will be made publicly available on the Iowa HHS website.

25. In the final report(s) filed with the Court, the Monitor may include only such private health information necessary to provide context for the report. The Monitor will not include any identifier of the individual, the individual's relatives and household members, or the individual's guardian as specified in 45 C.F.R. § 164.514(b) (or any other identifiers or information that could be used to identify the individuals). If any identifiers are included in the report, the Defendant may redact that information before publishing the report.

26. The Department will provide the Monitor with reasonable access to all people, places, and documents necessary to assess the Department's compliance with the terms of this Agreement to the extent those people, places, and documents are within the Department's control. The Parties agree that the Monitor will have the authority to employ additional consultants or technical assistance if needed, subject to the approval of the Parties. The Parties shall not unreasonably withhold approval. Both the Monitor and any employees or sub-contractors will have access to all relevant data and information. The Monitor shall provide reasonable notice of any visit or inspection or request for access. Defendant and Plaintiffs will have access, through the Monitor, to all information utilized by the Monitor.

27. The Department will pay the reasonable fees and expenses of the Monitor and the Monitor's consultants or other individuals working for the Monitor. Within 60 days of appointment of the Monitor, the Monitor shall prepare and provide the Parties an initial budget based on the Monitoring Plan outlined in Paragraph 23. Within 14 days of receiving the budget, the Parties shall either object to or approve the budget. The Parties shall not unreasonably withhold approval. The Monitor shall prepare a new budget annually on or before the anniversary of the due date of the first budget. The Parties shall follow the same procedures for approval of each annual budget.

28. No Party will have supervisory authority over the Independent Monitor. The Parties will engage the Monitor and any sub-contractors at Defendant's expense.

E. Interim Benchmarks & Opting Out

29. Interim Benchmarks.

(a) Identification of the Class Member Size. After the Eligibility Criteria for each of the Relevant Services have been agreed upon (*see* Section C), the Defendant will, within 90 days, make a good faith, reasonable estimate of the number of children expected to meet those eligibility criteria and will propose, based upon this eligibility estimate, Interim Penetration Benchmarks, Interim Service Unit Benchmarks, and Interim Residential Setting Benchmarks, for each Interim Benchmark Date. The proposed Interim Benchmarks will be subject to Plaintiffs' consent and the approval of the

Independent Monitor. The Plaintiffs and Monitor shall not unreasonably withhold consent and approval.

(b) **Interim Benchmark Date** means, for each Relevant Service, the 180th day following the date upon which the Relevant Service has begun to be provided statewide, and each subsequent 180th day.

(c) **Interim Penetration Benchmark** means, for each category of Relevant Services (ICC, IHCTS, MCIS, and Waiver) the percent of eligible Class Members targeted to be receiving the services by the Interim Benchmark Date. The Interim Penetration Benchmark for IHCTS includes Class Members receiving any IHCTS and is not limited to Class Members receiving the minimum number of units under subsection (d).

(d) **Interim Service Unit Benchmark** means the percentage of eligible Class Members targeted to be receiving a minimum number of IHCTS units per child per month/year by the Interim Benchmark Date. The metric used to measure the minimum service units will be proposed and approved along with the Interim Service Unit Benchmarks, with input and agreement of the Parties and the Monitor.

(e) **Interim Residential Setting Benchmarks** include:

(i) The percentage of eligible Class Members placed in an in-patient or residential setting that were assessed by a licensed professional of the healing arts as requiring a level of care that could not be met in the community with Relevant Services.

(ii) The percentage of eligible Class Members that were placed in an in-patient or residential setting who were assessed and referred for Relevant Services upon discharge.

30. Opting Out.

(a) For the purposes of calculating whether the Defendant has met an Interim Benchmark, eligible Class Members who have opted out as defined in subsection (b) will not be included in the denominator of the percentage of Class Members receiving the particular services.

(b) An eligible Class Member opts out of Relevant Services if all of the following elements of an informed refusal are present:

(i) The Class Member and their family have been provided detailed information about the nature of the Relevant Services, including what the services are designed to do, how the services should be delivered, and how families' needs can be accommodated in the design of the service plan.

(ii) The information identified in subsection (i) has been provided on at least three separate occasions, including one in-person meeting.

(iii) At the time the Class Member and their family first refuse the Relevant Services, they are provided written information explaining that notwithstanding the refusal, the family may request the services at any time in the future.

(iv) Each time the Class Member and their family refuse the Relevant Services, the reason for their refusal must be documented in writing and retained in the record;

(v) A supervisor must review the line personnel's documentation, including the reasons for refusal and affirm in writing that all information relevant to the family's decision has been provided.

(c) Iowa HHS and its contractors shall track and review service refusals and reasons for refusals as part of their system oversight.

F. Reporting Requirements

31. Reporting Regarding the Relevant Services. For each of the Relevant Services, beginning on the first Interim Benchmark Date, Defendant will report on a quarterly basis to the Independent Monitor and Plaintiffs' counsel, the following information: (a) the numbers and percentages of Class Members who meet the eligibility criteria for the Relevant Services; (b) the numbers and percentages of Class Members receiving each of the Relevant Services in the aggregate statewide, by geographic location, and by managed care plan; (c) the dollar expenditure for such services, per child (average dollars per child) and in the aggregate; (d) the denial, state fair hearing appeal, and success on appeal rates for each of the Relevant Services; and (e) for IHCTS and Waiver Services, the average number of units and units of each of the individual services delivered, per child, annualized.

32. Reporting Regarding Placement in the Least Restrictive Setting. Beginning within 90 days following the Court's final approval of this Agreement, Defendant will report on a quarterly basis to the Independent Monitor and Plaintiffs' counsel, the following information: (a) the numbers and percentages of Class Members who receive in-patient psychiatric treatment, residential treatment, or treatment in an emergency room or emergency department; (b) the dollar expenditure for such services, per child (average dollars per child) and in the aggregate; (c) the percentage of eligible Class Members placed in an in-patient or residential setting that were assessed by a licensed professional of the healing arts as no longer requiring an in-patient or residential level of care, including children who are there on administrative days; and (d) the percentage of eligible Class Members that were placed in an in-patient or residential setting who were assessed and referred for Relevant Services upon discharge.

33. Demographic Data. For each Relevant Service, beginning on the first Interim Benchmark Date, Defendant will report every six months to the Independent Monitor and Plaintiffs' counsel, the numbers and percentages of Class Members receiving the Relevant Services broken down by geographic location, managed care plan, age, gender, race, ethnicity, child welfare involvement, and special education involvement to the extent special education information is available.

34. Public Reporting. Beginning on the first Interim Benchmark Date for any of the Relevant Services, Defendant will develop and continue to maintain a publicly available data dashboard, updated quarterly. The data dashboard will provide information about Relevant Services for which statewide coverage has been implemented. Defendant will ensure that the dashboard shows statewide performance related to the provision of Relevant Services to Class Members, including the increase or decrease in utilization of the Relevant Services. The dashboard will provide specific claims or encounter data on the provision of each of the Relevant Services received by Class Members, broken down by geographic location, managed care plan, age, gender, race, ethnicity, child welfare involvement, and special education involvement to the extent special education information is available.

35. Baseline Estimates. Within six months of the entry of this Agreement, Defendant will prepare Baseline Estimates containing (a) the numbers and percentages of Class Members who are projected to meet the eligibility criteria for the Relevant Services; (b) the numbers and percentages

of Class Members who in the past year have received in-patient psychiatric treatment, residential treatment, or treatment/visits in an emergency room or emergency department, and (c) the current dollar expenditure for such services, per child and in the aggregate statewide. To the extent that such Baseline Estimates cannot be based on final eligibility criteria, Defendant will use proxy metrics to develop the Baseline Estimates, including but not limited to proxy metrics based on diagnoses, receipt of specified mental health services, in-patient psychiatric stays (including PRTFs and PMICs), and treatment/visits in an emergency room or emergency department.

V. VALIDATION AND EXIT

A. Validation by the Independent Monitor

36. Validation of Amended Implementation. The Independent Monitor will be responsible for validating whether Defendant has complied with the terms of this Agreement. Defendant's provision of the Relevant Services will be reviewed annually by the Independent Monitor who will determine whether the Relevant Services are being provided with fidelity to the service descriptions in Appendix A, and in a manner consistent with best practices, and whether they are available on a timely basis for Class Members eligible for the services.

37. Data on Performance. Defendant will provide the Independent Monitor and Plaintiffs' counsel, on a quarterly basis, with the performance measures, data, and supporting documentation set out in this Agreement, including Section IV above. Defendant will provide the Independent Monitor and Plaintiffs' counsel drafts of the written plans, policies, tools, measurement methodologies, reports, and other materials contemplated under this Agreement and under the Amended Implementation Plan, and the Independent Monitor and Plaintiffs' counsel will have a reasonable opportunity to comment on such materials before they are finalized or made available for public comment more generally. The Parties and the Independent Monitor will meet quarterly to review this information.

38. Validation of Defendant's Compliance. As a condition for Exit under Section V.B below, the Independent Monitor will verify Defendant's compliance with the terms of this Settlement Agreement. Defendant will provide the Independent Monitor and Plaintiffs' counsel with documentation evidencing Defendant's compliance and provide the Independent Monitor and

Plaintiffs' counsel with such additional information, data, and documentation reasonably necessary to verify compliance. Defendant will respond promptly to requests for additional information, data and documentation, with any disputes to be resolved in accordance with Section VI below.

39. Corrective Action. In the event that (a) Defendant fails to meet any Interim Benchmarks, or (b) the Monitor's annual report determines that the Relevant Services are not being provided on a timely basis, in substantial conformance with the service descriptions set out in Appendix A or in a manner consistent with best practices, Defendant will develop and implement a plan for corrective action, in consultation with the Independent Monitor and Plaintiffs' counsel.

B. Exit Procedure

40. The Parties anticipate Defendant will complete implementation of this Agreement on or about December 31, 2032, and that the Parties' obligations herein will terminate, if at that time Defendant demonstrates they have substantially complied with the exit criteria below. At that time, the exit criteria set forth in Section VI.C will be the sole objective measures that, when accomplished, will indicate that Defendant is in substantial compliance with the terms of this Agreement such that the lawsuit herein will be dismissed.

41. On or about nine months prior to the date implementation is anticipated to be completed, whichever is sooner, the Parties will meet to determine whether there is any dispute as to whether the Defendant is on track to meet the exit criteria.

42. Notwithstanding Paragraphs 40 and 41, before completion of full implementation of all exit criteria in the Settlement Agreement, the Defendant may seek a determination of substantial compliance with any specific substantive paragraph or subparagraph of Section VI.C of this Agreement if it has attained and maintained substantial compliance with the corresponding exit criteria of that specific provision for at least one year. The Defendant may seek such determination by filing an appropriate motion. Prior to filing such a motion, the Defendant will engage in the dispute resolution process described in Section VI.

C. Exit Criteria

The exit criteria set forth below will be the sole objective measures that, when accomplished, will indicate that Defendant is in substantial compliance with the terms of this Agreement:

Service Delivery Exit Criteria

43. Defendant:

a) Has identified and adopted a standardized and appropriate assessment tool(s) to identify putative Class Members for possible eligibility for Intensive Home and Community-Based Services;

b) Has identified and adopted a standardized and appropriate assessment tool or process to identify putative Class Members for possible eligibility for Waiver Services;

c) Has adopted and is using consistent procedures statewide to assess, refer, and link putative Class Members who meet eligibility criteria to the Relevant Services, and measure and communicate outcomes for Class Members using the Relevant Services;

d) Is providing the Relevant Services statewide to Class Members who meet the eligibility criteria and have not opted out of receiving the Relevant Services;

e) Demonstrates statewide network adequacy for the Relevant Services for Class Members for whom they are medically necessary;

f) Is providing standardized education and training on processes and tools for identification and referral of putative Class Members to the Relevant Services; and

g) Has developed and is providing accessible information about the Relevant Services to putative Class Members, their families, and other stakeholders.

Implementation Plan Exit Criteria

44. Defendant:

a) Has implemented and substantially complied with the processes, timelines, and action steps laid out in the Amended Implementation Plan.

Final Benchmarks Exit Criteria

45. Defendant:

a) Has met and sustained the Final Benchmarks for a period of one year after the Final Benchmark Date, and the Independent Monitor has confirmed that, for one year, the Relevant Services have been provided in a timely manner, in substantial conformance with the service descriptions set out in Appendix A. In determining compliance with the Final Benchmarks required as Exit Criteria, the Parties, in consultation with the Monitor, will determine appropriate timely access standards for the Relevant Services that account for the urgency of need for each Relevant Service as well as the Network Adequacy time and distance standards required in 42 CFR Sections 438.68 and 438.206 of federal Medicaid Managed Care regulations.

b) Concurrently with the timeline for proposing Interim Benchmarks under Paragraph 29, the Parties will establish Final Benchmarks to be met by the Final Benchmark Date. The final benchmarks will be set at a level that provides reasonable assurance that the Relevant Services are being sufficiently provided to the population of Medicaid-eligible children for whom such services are medically-necessary, and are being provided timely and with the required intensity. The proposed Final Benchmarks will be subject to the approval of the Independent Monitor. The Monitor shall not unreasonably withhold approval.

c) **Final Benchmark Date** means, for each Relevant Service, the date the Parties have agreed the Defendant will meet the Final Benchmarks Exit Criteria. The Final Benchmark date will be determined concurrently with identification of the Final Benchmarks, and will be no later than December 31, 2031.

d) **Final Penetration Benchmark** means, for each category of Relevant Services (ICC, IHCTS, MCIS, and Waiver), the percent of eligible Class Members targeted to be receiving the services by the Final Benchmark Date. The Final Benchmark for IHCTS

includes Class Members receiving any IHCTS and is not limited to Class Members receiving the minimum number of units under subsection (e).

e) **Final Service Unit Benchmark** means the percentage of eligible Class Members targeted to be receiving a minimum number of IHCTS units per child per month/year by the Final Benchmark Date. The metric used to measure the minimum service units will be the same metric agreed upon under the process of Paragraph 29(d).

f) **Final Residential Settings Benchmarks** will be used to measure success in placing members in the least restrictive setting. Final Settings Benchmarks include:

(i) The percentage of eligible Class Members placed in an in-patient or residential setting that were assessed by a licensed professional of the healing arts as requiring a level of care that could not be met in the community with Relevant Services.

(ii) The percentage of eligible Class Members that were placed in an in-patient or residential setting who were assessed and referred to Relevant Services upon discharge.

g) For the purposes of calculating whether the Defendant has met Final Benchmarks, eligible Class Members who have opted out of the Relevant Services as defined in Paragraph 30 will not be included in the denominator of the percentage of Class Members receiving the Relevant Services.

Data and Quality Management Exit Criteria

46. Defendant:

a) Has developed and is using a Quality Improvement and Accountability plan.

b) Is operating a quality assurance system consistent with the Quality Improvement and Accountability plan.

c) Measures and reports quarterly on a public data dashboard(s) statewide performance related to the provision of Relevant Services to Class Members, including the number of Class Members who are identified, screened, assessed, and receive or are denied the Relevant Services, and reflecting utilization of the Relevant Services by geographic location, managed care plan, and children's race/ethnicity and age, child welfare involvement, and special education involvement.

VI. DISPUTE RESOLUTION AND ENFORCEMENT MECHANISMS

A. Process

All disputes arising out of or in connection with the Settlement Agreement will be resolved as set out in this Section.

47. Notice of Dispute. To invoke the dispute resolution and enforcement mechanisms in this subsection, the Party seeking dispute resolution will provide written notice of the dispute to the opposing Party and request a meet and confer. The request for a meet and confer will include a written description of the items for dispute resolution under this subsection.

48. Meet and confer. Within fourteen (14) days of notice of a Party's request for dispute resolution, unless another time is agreed by the Parties, the Parties agree to convene at a mutually agreeable time and place, and use their good-faith, best efforts to discuss and resolve the dispute. The initial meeting will be a direct negotiation between the Parties without the assistance of a mediator or other non-party.

49. Mediation Process. If the Parties are unable to resolve the dispute within thirty (30) days, following the meet and confer, or such other time frame to which the Parties agree, they will engage the services of a mutually agreeable mediator for the purpose of mediating a resolution to the dispute, to be engaged at Defendant's expense. The Parties agree that Kathleen Noonan will serve as the agreed-upon mediator for purposes of dispute resolution. If Kathleen Noonan is not able to serve as mediator, the Parties will engage the services of another mutually-agreeable mediator. The meeting will be at a mutually agreeable time and place, and, with the assistance of the mediator, the Parties will use their good-faith, best efforts to discuss and resolve the dispute.

50. Amendments to Agreement. Any agreement reached through the meet and confer or mediation process that either Party believes is a material amendment to or modification of the Agreement will be formalized as an addendum to the Parties' Agreement and submitted to the District Court for approval.

51. The Parties agree to engage in the dispute resolution process described above prior to filing any motion with the Court. If, after negotiating in good faith, including through mediation, no resolution is reached, either Party may file an appropriate motion with the District Court in this matter. The moving Party will provide 20 days prior notice to the opposing Party of such motion.

52. Expedited dispute resolution. In the event that Plaintiffs' counsel reasonably believes that there is a systemic risk of imminent harm to a broad group of Class Members as a result of Defendant's material noncompliance with their systemic obligations under this Agreement, Plaintiffs' counsel will make a good-faith effort to consult with the Defendant's counsel to discuss the potential harm resulting from an alleged failure to meet their systemic obligations. A "systemic obligation" is one that may affect all of, or a substantial portion of, the Class Members and is not represented or proven by a circumstance or condition affecting an individual Class Member. If the issue or issues are not resolved within 10 days, or a longer period of time agreed to by the Parties, the Parties may engage in an expedited mediation process. If an appropriately expedited dispute resolution process cannot be scheduled, or the systemic matter is not resolved through mediation, Plaintiffs' counsel may proceed directly to the District Court or make take any other necessary legal action. Plaintiffs' counsel will provide at least one (1) business day's written notice to Defendant's counsel via electronic mail and first-class mail prior to initiating court action.

VII. COURT APPROVAL

53. The United States District Court has jurisdiction over the claims against the Defendant pursuant to 28 U.S.C. §§ 1331, 1343(a). Venue is proper in the Southern District of Iowa pursuant to 28 U.S.C. § 1391(b).

54. This Agreement settles all claims against Defendant in this lawsuit.

55. As soon as practical after the date of this Agreement, the Parties will file a joint or unopposed motion seeking preliminary approval of this Agreement. The motion will request that

the Court set a schedule for a fairness hearing on the settlement, a process for providing notice to interested parties, and a schedule for moving for a judgment and order granting final approval of the Agreement. The Parties will use their best efforts to cause this Settlement Agreement to receive final approval from the Court.

56. The parties' proposed judgment and order granting final approval of this settlement will:

a) Grant final approval of the Settlement Agreement without modification of its terms as fair, reasonable, and adequate to the Class under Fed. R. Civ. P. 23(e);

b) Find that the Settlement Agreement resulted from extensive arm's length, good faith negotiations between the Parties through experienced counsel;

c) Comply with the content and scope requirements of Fed. R. Civ. P. 65(d)(1), expressly incorporate the actual terms of this Settlement Agreement, and make the Parties' compliance with the terms of this Settlement Agreement part of the order;

d) Include a finding that by agreeing to settle the action, Defendant does not admit, and specifically deny, any and all liability in the action; and

e) Incorporate the entirety of the express terms of the Settlement Agreement and provide that the Court has and will retain jurisdiction over the judgment and order to enforce the Settlement Agreement.

57. This Settlement Agreement will be effective on the date of final approval by the Court.

VIII. MISCELLANEOUS

58. Attorney Fees and Costs. Upon entry of this Agreement, Plaintiffs will be deemed a prevailing party and the reasonableness of attorneys' fees, costs and expenses awarded may include a determination of the level of success and benefit achieved by Plaintiffs in connection with this Litigation. Plaintiffs can also seek reasonable attorneys' fees and costs for monitoring and enforcement of a Final Settlement Agreement and Consent Decree.

59. Release of Claims. If the Court grants final approval of this Settlement Agreement, Plaintiffs will be deemed to have released all pending claims for class wide declarative or injunctive relief based upon the facts asserted in the Complaint against Defendant.

60. Confidentiality Order. The Protective Order entered in this case (ECF No. 29) will remain in full force and effect until the Court enters an order granting final termination of jurisdiction over and exit from the Settlement Agreement and the final judgment and order. All communications concerning the negotiation of the Settlement Agreement, including but not limited to, its content or any details conveyed to or by the Parties during its negotiation are confidential. Nothing in this Settlement Agreement prohibits or restricts any Party or their representatives from publicly communicating the fact that the Parties have entered a Settlement Agreement. The Parties acknowledge that the terms of the Settlement Agreement will be made public when the settlement is filed with the Court.

61. Funding. Iowa HHS, while empowered to enter into and implement this Agreement, does not have the legal authority to bind the Iowa General Assembly, which has the authority under the Iowa Constitution and laws to appropriate funds for, and amend laws pertaining to, the Defendant's system of services for the Class. Defendant will make all reasonable efforts to obtain funding and resources to fulfill the terms of this Agreement. At least annually after Court approval of this Agreement, and consistent with existing state budgetary practices and legal requirements, Defendant will request state funds sufficient to effect the terms set forth in this Agreement in connection with any budget, funding, or allocation request to the executive or legislative branches of state government. Defendant will also maximize all available federal funding opportunities.

62. Governing Law. Federal law governs this Settlement Agreement.

63. Counterparts. This Settlement Agreement may be executed in counterparts, each of which will be deemed to be an original, but all of which, taken together, will constitute one and the same agreement. Execution by facsimile, by scanned attachments, or by electronic signature has the same force and effect as an original.

64. Severability. Each of the provisions in this Settlement Agreement is separately and independently enforceable. Every position in this Settlement Agreement applies to all Class Members.

65. The obligations of Defendant are binding regardless of whether they are performed, delivered, implemented, or managed directly by Defendant or by grantees, subcontractors, or agents.

66. Successors and Assigns. This Settlement Agreement binds and inures to the benefit of the successors and assigns of the Parties, including any agency or agencies with any of the responsibilities of Iowa HHS.

67. Entire Agreement. This Settlement Agreement is the final and exclusive agreement between the Parties with respect to its subject matter.

68. Modification. Before the final judgment and order of the Court, no amendment to this Agreement will be effective unless it is in writing and signed by the Parties. After the final judgment and order, no modification of this Agreement will be effective unless it is in writing, signed by the Parties, and approved by the Court.

69. The Parties and their counsel have each contributed to the preparation of this Settlement Agreement. No provision will be construed against a Party on the ground that one of the Parties or their counsel drafted the provision.

70. Each signatory states that they are fully authorized to execute this Settlement Agreement on behalf of the Party for which he or she signs.

71. The Parties agree those materials contained in the appendices to this Agreement, as referenced in the main body of the Agreement, are included and fully incorporated into this Agreement as if fully set forth herein.

72. This Agreement contains all the terms and conditions agreed upon by the Parties. No other understandings, oral or otherwise, regarding the subject matter of this Agreement will be deemed to exist or to bind any of the Parties hereto.

73. Nothing in this Settlement Agreement will limit the ability of any individual Plaintiff or putative Class Member to pursue any legal or administrative remedies to which they would otherwise be entitled under state or federal law other than for the claims for systemic injunctive relief adjudicated by this action.

74. Nothing in this Agreement will be deemed to limit the Court's powers of contempt or any other power possessed by the Court.

75. Nothing in this Settlement Agreement will be deemed to limit the ability of Disability Rights Iowa to fulfill its federal mandates pursuant to the Protection and Advocacy for Individuals with Mental Illness (PAIMI) Act, 42 U.S.C. § 10801, *et seq.*, and the regulations promulgated thereto, 42 C.F.R. § 51, *et seq.*, the Developmental Disabilities Assistance and Bill of Rights (DD) Act, 42 U.S.C. §15041, *et seq.*, and the regulations promulgated thereto, 45 C.F.R. § 1326, *et seq.*, and the Rehabilitation Act Amendments of 1992, 29 U.S.C. § 794e.

FOR AND ON BEHALF OF THE DEFENDANT:

By: Kelly Garcia Dated: 12/20/2024

Kelly Garcia
Director
Iowa Department of Health and Human Services
321 East 12th Street
Des Moines, Iowa 50319

By: _____ Dated: _____

Brenna Bird
Attorney General of Iowa

FOR AND ON BEHALF OF THE DEFENDANT:

By: _____ Dated: ____ ____

Kelly Garcia
Director
Iowa Department of Health and Human Services
321 East 12th Street
Des Moines, Iowa 50319

By: Brenna Bird Dated: 12/19/24

Brenna Bird
Attorney General of Iowa

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APPENDIX A

APPENDIX A

Intensive Child and Adolescent Services, the "Relevant Services" for the Defined Class

A. Intensive Home and Community-Based Services

1. Intensive Care Coordination

Intensive Care Coordination (ICC) includes facilitating assessment, care planning, coordination of services, authorization of services, and monitoring of services and supports to address children's health conditions by a single, consistent care coordinator.

Intensive Care Coordination provides:

- A single point of accountability for ensuring that medically necessary Medicaid services are accessed, coordinated, and delivered in a strength-based, individualized, family-driven, child-guided culturally and linguistically relevant manner;
- Services and supports that are guided by the needs of the child;
- Facilitation of a collaborative relationship among a child, the family, and child-serving systems;
- Support for the parent/caregiver in meeting the child's needs;
- A care planning process that ensures that a care coordinator organizes and matches care across providers and child-serving systems to allow the child to be served in the home and community; and
- Facilitated development of an individual's care planning team (CPT). Teaming is a process that brings together individuals selected by the child and family who are committed to them through informal, formal, and community support and service relationships. ICC will facilitate cross-system involvement and a formal child and family team.

ICC service components consist of:

Assessment: Iowa HHS will implement its care planning team process, which includes

- completing a strengths-based, needs driven, comprehensive assessment to organize and guide the development of a Care Plan and a risk management/safety plan;
- an assessment process that determines the needs of the child for medical, educational, social, behavioral health, or other services;
- an ICC that may also include the planning and coordination of urgent needs before the comprehensive assessment is completed;

- further assessments that are provided as medically necessary and in accordance with best practice protocols.

Planning and Development of a Family-Driven, Child-Guided, Person-Centered Plan (PCP): Iowa HHS will maintain a family-driven, child-guided, person-centered planning process, which includes:

- having the care coordinator use the information collected through an assessment, to convene and facilitate the CPT meetings;
- having the CPT develop a child-guided and family-driven PCP that specifies the goals and actions to address the medical, educational, social, mental health, and other services needed by the child and family; and
- ensuring that the care coordinator works directly with the child, the family, and others significant to the child to identify strengths and needs of the child and family, and to develop a plan for meeting those needs and goals.

Crisis Planning. The Care Coordinator will provide crisis planning that, based on the child's history and needs, (a) anticipates the types of crises that may occur, (b) identifies potential precipitants and creates a crisis plan to reduce or eliminate them, and (c) establishes responsive strategies by caregivers and members of the child's team to minimize crises and ensure safety;

Referral, monitoring, and related activities: Iowa HHS will require that the care coordinator:

- works directly with the child and family to implement elements of the PCP;
- prepares, monitors, and modifies the PCP in concert with the CPT and determines whether services are being provided in accordance with the PCP; whether services in the PCP are adequate; and whether there are changes in the needs or status of the child and, if so, adjusts the PCP as necessary, in concert with the CPT; and
- actively assists the child and family to obtain and monitor the delivery of available services, including medical, behavioral health, social, therapeutic, and other services.

Transition: Iowa HHS will require the care coordinator to:

- develop a transition plan with the CPT, and implement such plan when the child has achieved the goals of the PCP; and
- collaborate with the other service providers and agencies on behalf of the child and family.

Settings: ICC may be provided to children living and receiving services at home and in the community, including foster care placements, as well as to children who are currently in a hospital, group home, or other congregate or institutional placement as part of discharge or transition planning. Notwithstanding the foregoing, ICC will not be provided to children in juvenile detention centers.

2. Intensive In-Home and Community Therapeutic Services (IHCTS)

Intensive In-Home and Community Therapeutic Services (IHCTS) are individualized, strength-based interventions to correct or ameliorate behavioral health conditions that interfere with a child's functioning. Interventions help the child to build skills necessary for successful functioning in the home and community and improve the family's or caregiver's ability to help the child successfully function in the home and community.

IHCTS are delivered according to a care plan developed by the CPT. The CPT develops goals and objectives for all life domains in which the child's behavioral health condition causes impaired functioning, including family life, community life, education, vocation, and independent living, and identifies the specific interventions that will be implemented to meet those goals and objectives.

The goals and objectives seek to maximize the child's ability to live and participate in the community and to function independently, including through building social, communication, behavioral, and basic living skills. Providers of IHCTS should engage the child and other family members or caregivers in home and community activities where the child has an opportunity to work towards identified goals and objectives in a natural setting. The provision of IHCTS does not include the prescription of medications, including psychotropic medications or hormone-based therapies.

Phone contact and consultation may be provided as part of the service.

IHCTS include, but are not limited to:

- Educating the child's family about, and training the family in managing, the child's needs;
- In-home functional behavioral assessments, as needed;
- Behavior management, including developing and implementing a behavioral plan with positive behavioral interventions and supports, modeling for the child's family and others how to implement behavioral strategies, and in-home behavioral aides who assist in implementing the behavior plan, monitoring its effectiveness, and reporting on the plan's effectiveness to clinical professionals;
- Therapeutic services delivered in the child's home and community, including but not limited to therapeutic interventions such as (a) individual and/or family therapy, and (b) evidence-based practices (*e.g.*, Family Functional Therapy, Multisystemic Therapy, Trauma-Focused Cognitive Behavioral Therapy, etc.). These services:
    - Improve self-care, including addressing behaviors and social skills deficits that interfere with daily living tasks and avoiding exploitation by others;
    - Improve self-management of symptoms, including assisting with self-administration of medications;

- Improve social functioning, including addressing social skills deficits and anger management;
- Support the development and maintenance of social support networks and the use of community resources;
- Support employment objectives by identifying and addressing behaviors that interfere with seeking and maintaining a job;
- Support educational objectives, including identifying and addressing behaviors that interfere with succeeding in an academic program in the community; and
- Support independent living objectives by identifying and addressing behaviors that interfere with seeking and maintaining housing and living independently.

Settings: IHCTS may be provided to children living and receiving services at home and in the community, including foster care placements, as well as to children who are currently in a hospital, group home, or other congregate or institutional placement as part of discharge or transition planning. Notwithstanding the foregoing, IHCTS will not be provided to children in juvenile detention centers.
Providers: IHCTS are provided by a qualified provider.

3. Mobile Crisis Intervention and Stabilization Services (MCIS)

Mobile crisis services (MCIS) include crisis planning and prevention services, as well as face-to-face interventions that support the child in the home and community.

Services include, but are not limited to:

- Responding to the immediate crisis and assessing child and family safety, and what kinds of resources are available to address immediate problems.
- Stabilization of functioning by reducing or eliminating immediate stressors and providing counseling to assist in de-escalating behaviors and interactions;
- Referral and coordination with (a) other services and supports necessary to continue stabilization or prevent future crises from reoccurring, and (b) any current providers and team members, including the care coordinator, therapists, family members, primary care practitioners, and school personnel; and
- Post-crisis follow-up services (stabilization services) in compliance with state regulations and timeframes.

Settings: During a crisis, MCIS should be provided at the location where the crisis is occurring, including the home (biological, foster, relative, or adoptive) or any other setting where the child is naturally located, including schools, recreational settings, child care centers, and other community settings.

Availability: MCIS are available 24 hours a day, seven days a week, 365 days a year.

Providers: Pre-crisis planning and post-crisis services are typically provided by qualified providers drawn from members of the CPT as part of the provision of ICC and IHTS. During the crisis, MCIS are provided by a trained and experienced mobile crisis professional or team. Sufficient MCIS providers to meet the expected needs of members of the Defined Class should be available. MCIS providers may include paraprofessionals.

B. Waiver Services to Ensure Placement in Least Restrictive Setting

Additional Medicaid waiver services are used in conjunction with covered EPSDT services to support children with serious emotional disturbances and to help maintain them in their homes and communities and avoid higher levels of care and out-of-home placements. These services are currently authorized through a waiver under Section 1915(c) of the Social Security Act, allowing Iowa to spend federal Medicaid dollars on these services. Like IHCBS, these services improve the family's or caregiver's ability to help the child successfully function in the home and community, and help the child to build skills necessary for successful functioning in the home and community. Such services could include, but are not limited to, respite care and other services or supports not required to be covered under Medicaid EPSDT provisions.

Children receiving such services must have an individualized service plan (ISP) developed collaboratively with an interdisciplinary team (IDT). This plan documents the agreed upon goals, objectives, and service activities. The ISP must be reviewed and updated annually. The interdisciplinary team (IDT) consists of the child, the child's parents or legal guardians, case manager, mental health professionals, and any other persons that the child and family choose to include. The team meets to plan the supports a child and family need to safely maintain the child in the home.

APPENDIX B

APPENDIX B

Goals and Principles

1. The Goals of the Interim Agreement include, as they pertain to the members of the Defined Class:

   a. Identifying the intensive home and community-based service array (hereinafter referred to as the "Relevant Services") to be provided. The Relevant Services are described generally in Appendix A.

   b. Identifying the population to be served, the procedures for determining eligibility, how Medicaid-eligible beneficiaries access mental health care services and supports, the locations in which Medicaid beneficiaries receive these services and supports, and how to monitor and enforce the fulfillment of the Defendant's obligation to provide these services and supports.

   c. Establishing practices and procedures to promote improved collaboration and coordination by child-serving agencies, state agencies, counties, and providers that deliver care to Medicaid-eligible children with mental or behavioral health disorders, thereby improving the effectiveness of services to, and the outcomes of, families and children. Improving collaboration will also reduce duplication and waste, and lower costs.

   d. Establishing practices and procedures to reduce the fragmentation of services.

   e. Establishing consistent statewide screening, assessment, and referral procedures that will facilitate access to the Relevant Services, regardless of entry point, for all Medicaid-eligible children with mental or behavioral health disorders. It is the expectation of the Parties that a Medicaid-eligible child with mental or behavioral health disorders will be appropriately screened and, if necessary, assessed for the Relevant Services regardless of the initial point of contact, after which the child will be referred to the appropriate agency for provision of the Relevant Services.

   f. Providing the foundation for the statewide provision of behavioral health services consistent with the Principles under this Interim Agreement and developing and maintaining a comprehensive service array in order to provide members of the class with timely access to medically necessary and other home and community-based mental health services.

   g. Ensuring that Medicaid-eligible children receive mental health services in the most integrated setting appropriate to their needs and are free from serious risks of segregation and institutionalization, including the unnecessary use of out-of-home placements.

   h. Making systemic changes to ensure that the services and supports that are necessary to maximize the success and development of Medicaid-eligible children and adolescents with behavioral health disorders into healthy and independent adults are timely provided.

   i. Ensuring that children experiencing mental health crises receive an appropriate and effective response centered on addressing the underlying mental health issues at the place where the

child is located, and are not being relegated to law enforcement personnel and hospital emergency rooms.

j. Identifying and developing quality management tools and measures to monitor, provide, and improve quality of care, and to provide transparency and accountability to, and the involvement of, families, children, providers, advocacy organizations, and others with interest in the provision of behavioral health services.

k. Identifying and developing plans to address the specific service deficiencies that affect underserved communities, including specific populations having specialized needs, which include, but are not limited to, BIPOC (Black, Indigenous, and people of color) and LGBTQIA+ populations.

l. Identifying and developing measurable and enforceable standards to determine whether the State is fulfilling its obligation to provide necessary services and supports to Medicaid beneficiaries.

m. Identifying and developing reforms that maximize the effectiveness and efficiency of state resources in accordance with the Commitments outlined in this Interim Agreement.

2. The Parties shall be guided by the following Principles in connection with their implementation of this Interim Agreement, negotiation of a Final Settlement Agreement, and implementation of the terms of the Final Settlement Agreement. These broad Principles have been developed by the National Wraparound Initiative and describe a set of child and family-centered values and principles that shall inform and guide the management and delivery of the Relevant Services:

a. **Child Centered and Family Driven**: Family and child voice, choice, and preferences are intentionally elicited and prioritized during all phases of the process, including planning, delivery, transition, and evaluation of services. Services and interventions are family-driven and child-guided from the first contact with or about the family or child. Services and interventions also seek to reduce the burden placed on parents and caregivers in arranging, seeking out, and coordinating services.

b. **Team-based**: Services and supports are planned and delivered through a multi-agency, collaborative teaming approach, referred to as a "child and family team." Team members are chosen in conjunction with the family and connected to them through natural, community, and formal support and service relationships. The team works together to develop and implement a plan to address unmet needs and work toward the family's vision.

c. **Natural Supports**: The team actively seeks out and encourages the full participation of team members drawn from family members' networks of relationships (*e.g.*, friends, neighbors, community, and faith-based organizations). The care plan reflects activities and interventions that draw on sources of natural support to promote recovery and resiliency. However, implementation of the plan is not dependent on the availability of natural supports. Parents, guardians, and caregiver support and cooperation are key to the successful delivery of services to the Defined Class members in the least restrictive setting.

d. **Collaboration**: The system responds effectively to the behavioral health needs of multi-system involved children and their caregivers, including children in child welfare, juvenile justice, behavioral health and developmental disabilities, substance use, primary care, and education systems. Delay in service should not occur as a result of questioning who is the responsible payor.

e. **Home and Community-based**: Children are first and foremost safely maintained in, or returned to, their homes or the most family-like setting. Services and supports take place in the most inclusive, most integrated, most responsive, most accessible, and least restrictive or most family-like setting appropriate based on the needs of each child.

f. **Culturally Relevant**: Services are culturally relevant and respect the values, preferences, beliefs, culture, and identity of the child/adolescent, family, and community, including specific populations having specialized needs, which include, but are not limited to, BIPOC (Black, Indigenous, and people of color) and LGBTQIA+ populations.

g. **Individualized**: Services and supports are individualized and tailored to the unique strengths and needs of each child and family. They are altered to meet changing needs and goals.

h. **Strengths-based**: Services and supports are planned and delivered in a manner that identifies, builds on, and enhances the capabilities, knowledge, skills, and assets of the child and family, and the strengths of the community and other team members.

i. **Outcome-based**: Based on the family's needs and vision, the team develops goals and strategies, ties them to observable indicators of success, monitors progress in terms of these indicators, and revises the plan accordingly. Services and supports are persistent and flexible to overcome setbacks and achieve goals and outcomes. Safety, stability, and permanency are priorities.

j. **Unconditional Care**: A child and family team's commitment to achieving its goals persists regardless of the child's behavior, placement setting, family circumstances, or availability of services in the community. The team continues to work with the family toward their goals until the services are assessed to be no longer necessary or the family indicates that they are no longer required.

APPENDIX C

Amended Iowa REACH Initiative

The Implementation Plan for Responsive and Excellent Care for Healthy youth

June 2024; Amended January, 2025

Introduction

Purpose and vision of the Implementation Plan

This Implementation Plan is intended to fulfill the obligations of the Interim Settlement Agreement reached on October 2, 2023, in C.A. v. Garcia, case number 4:23-cv-00009-SHL-HCA. The plan is designed to serve as a single, integrated implementation plan that outlines the approach the Iowa Department of Health and Human Services (Iowa HHS) will take to improve the delivery of intensive home and community-based behavioral health services to the members of the Defined Class.

Class Members as defined in the Interim Settlement Agreement are:

> All Medicaid-eligible children in the State of Iowa under the age of twenty-one, (i) who have been determined by a licensed practitioner of the healing arts as having a serious emotional disturbance, not attributable to an intellectual or developmental disability, and (ii) for whom there is an assessment that intensive home and community-based services are needed to correct or ameliorate their condition.

The intensive home and community-based behavioral health services covered by the Interim Settlement Agreement include (1) Intensive Care Coordination (ICC), (2) Intensive In-Home and Community Therapeutic Services (IHCTS), (3) Mobile Crisis Intervention and Stabilization Services (MCIS), and (4) Waiver Services to ensure placement in least restrictive setting. This comprehensive intensive service array is referred to as the "Relevant Services." The four services that make up the Relevant Services are defined in detail in Appendix A of the Interim Agreement.

The Iowa HHS mission is to provide high quality programs and services that protect and improve the health and resiliency of individuals, families, and communities.

The Iowa HHS vision and mission are in alignment with the goals of the Interim Settlement Agreement to maximize the success and development of Medicaid-eligible children and adolescents with behavioral health disorders into healthy and independent adults through the delivery of medically necessary community-based behavioral health services.

Overview of the Implementation Plan

The Implementation Plan provides a blueprint for improving and strengthening the delivery of intensive home and community-based behavioral health services and implementing quality management and accountability structure that ensures ongoing quality assurance and systems improvement for the Defined Class.

The Implementation Plan is focused on two core goals:

Goal 1: Develop, improve and strengthen the Relevant Services for the Defined Class to effectively meet their individual needs and maximize their success and development in the least restrictive setting.

Goal 2: Develop a quality management and accountability structure that ensures ongoing quality assurance and systems improvement for the Defined Class.

The collection of efforts outlined in the Implementation Plan will be called the Iowa REACH (Responsive and Excellent Care for Healthy youth) Initiative. Iowa HHS will establish the Iowa REACH Implementation Team to provide governance and accountability for the Implementation Plan.

The Implementation Plan is not a detailed work plan. It presents the high-level goals, objectives, strategies, and planned activities for each aspect of the Iowa REACH Initiative in sufficient detail so the Court can determine if the Implementation Plan is reasonably capable of achieving the terms of the Interim Agreement. The strategies will occur in a phased approach over four years leveraging implementation of other state system improvements and Iowa HHS's targeted focus on improving behavioral health services for the Defined Class.

Iowa HHS, while empowered to enter and implement this Interim Agreement, does not have the legal authority to bind the Iowa General Assembly, which has the authority under the Iowa Constitution and laws to appropriate funds for, and amend laws pertaining to, the State's system of services for the Defined Class. In addition, Iowa HHS may need to seek federal approval of some Medicaid program changes and cannot commit to timelines on behalf of the federal government. Iowa HHS shall make all reasonable efforts to obtain funding and resources to fulfill the terms of this Interim Agreement and will visit with legislators when they are in session to ensure awareness of these tentative agreements.

Governance Structure

In this implementation plan, Iowa HHS commits to the creation of an implementation team, with subcommittees on communications, identification of an assessment tool, care coordination, service development and provider capacity, and quality improvement and accountability. The implementation team will be responsible for overseeing the implementation of this plan's commitments. The implementation team will meet monthly to share progress, risks and issues.

The implementation team will include professionals from the Iowa HHS divisions of Medicaid, Behavioral Health, Aging and Disability Services and Family Wellbeing and Protection. Iowa HHS will continue to work with the experts referenced in the Interim Settlement Agreement Requirement 8(a)(iv), along with other experts or consultants as needed. Iowa HHS staff will provide agendas and relevant materials to the implementation team prior to its monthly meeting.

In addition to the Iowa HHS team and its vendors assigned to this project, Iowa HHS will request participation from providers, stakeholders, youth and their families on the implementation team.

Implementation Plan

Goal 1: Develop, improve and strengthen the Relevant Services for the Defined Class to effectively meet their individual needs and maximize their success and development in the least restrictive setting.

Objective 1. Engage and communicate with families to inform, educate, and involve youth and their families, providers and child serving agencies in the Iowa REACH Initiative.[1]

The strategies and activities described in this part of the Implementation Plan demonstrate the commitment of Iowa HHS to engage youth and their families, providers and partners from child serving agencies in the design and implementation of the Iowa REACH Initiative. This section also describes how the State will improve and strengthen educational materials to support the effective identification and engagement of the Defined Class and those who support them.

Strategy 1. Engage families and providers through targeted engagement and education activities to design and implement the Relevant Services in order to improve and strengthen services as part of the Iowa REACH Initiative.

1. Ongoing Activities.
    a. Create formal opportunities for youth and families to engage in the design and implementation of the Iowa REACH Initiative.
        i. Continue to present updates and opportunities for feedback at Iowa HHS public provider and member townhalls.
        ii. Ensure individuals with lived experience supporting youth with serious emotional disturbances are engaged through the creation of a Consumer Steering Committee.
        iii. Create and advertise public comment opportunities on key program design and implementation plans.
        iv. Engage youth with serious emotional disturbances and their families in structured research and feedback activities including, but not limited to the Needs on Waitlist (NOW) survey, Provider Capacity Assessment being conducted by Mathematica in 2024, as well as leveraging feedback already received and the ongoing feedback from individuals and families with lived experience via Iowa's certified community behavioral health clinic (CCBHC) planning and implementation process and the crisis system evaluation conducted in collaboration with Health Management Associates (HMA).

Strategy 2. Develop accessible information about the obligations of this settlement and the plan to provide Relevant Services within the Iowa REACH continuum of care for youth, providers, and child-serving agencies.

1. Short-term activities (2025)
    a. Develop a communication plan for pre-implementation activities. This plan will include stakeholder engagement to recruit for Iowa REACH Initiative committees and how Iowa HHS will provide the public with updates.
    b. Engage a Communications subcommittee as part of the Iowa REACH Implementation Team. This subcommittee will create a communication plan by working with stakeholders to identify needs and necessary information including but not limited to:
        i. who is intended to be served,
        ii. what services are available,
        iii. how to make a referral or self-referral for a screening,

[1] Interim Settlement Agreement Requirement, Section B. Implementation Plan 8. b. Beneficiary Information and Service Array, i.

iv. how medical necessity is determined, and
v. how youth and family can be involved in governance and due process.

c. Engage youth in their own behavioral health and well-being by providing accessible screening and behavioral health resources.
d. Ensure information about the Iowa REACH Initiative is accessible and helpful to the public.

2. Ongoing Activities
   a. Implement the comprehensive communications plan to ensure clear communications about systems improvements and changes being implemented in 2026 including, but not limited to, the implementation of the Relevant Services, implementation of the redesigned home and community-based services waiver and the implementation of the Behavioral Health Services System.
   b. Develop a holistic end-to-end toolkit to support case managers and care coordinators in navigating eligibility for the Relevant Services, referral sources and other important information.
   c. Create an online training on Medicaid eligibility and update the training annually, or when any significant eligibility change occurs.

Strategy 3. Engage child serving individuals and organizations to ensure they are aware of currently available services and supports and upcoming changes and development and implementation of Relevant Services and supports for the Defined Class.

1. Short-term Activities (2025)
   a. Develop an action plan to engage and educate child-serving individuals and agencies including health navigators, school professionals, Iowa HHS staff and juvenile justice program staff.
2. Ongoing Activities (2025-2028)
   a. Conduct ongoing trainings and engagement to ensure clear communications about systems improvements and changes being implemented in 2026 and beyond.
   b. Work collaboratively with youth, providers, and child-serving agencies to gather feedback on communications materials and identify gaps and opportunities for improvement.

Strategy 4. Strengthen cultural competency and accessibility through engagement with culturally appropriate organizations in the development and review of materials.

1. Short-term Activities (2025)
   a. Develop trainings on cultural competency and accessibility with the Health Equity Office to make available on staff SharePoint sites.
   b. Use results from the Iowa HHS Health Equity Assessment to inform internal cultural competency training needs.
   c. Engage the Iowa REACH Communication Subcommittee with researching best practices from other states surrounding culturally competent communications.

Anticipated Outcomes of Objective 1

1. Youth, families, providers, and public child-serving agencies are fully informed about the Relevant Services and how to access them.
2. Communications are culturally competent and accessible.
3. Communications are reviewed and improved where necessary on a regular basis.

Objective 2. Effectively identify and determine eligibility for the Relevant Services through a standardized and appropriate assessment tool.[2]

To meet the goal of the Interim Agreement of establishing consistent statewide screening, assessment and referral procedures that will facilitate access to medically necessary services for the Defined Class Iowa HHS

[2] Interim Settlement Agreement Requirement, Section B. Implementation Plan 8. a. Relevant Services, iii.

will implement a uniform comprehensive diagnostic assessment process to determine eligibility for Relevant Services.

Strategy 1. Engage stakeholders through the Iowa REACH Implementation Team to develop a public engagement and decision-making process to decide on the new uniform assessment tool that will be used for Iowa REACH Initiative pathways to care.

1. Short-term Activities (2025)
    a. Create an Assessment Tool Subcommittee of the Iowa REACH Implementation Team and task them with:
        i. Evaluating assessment tool options informed by research conducted by Mathematica.
        ii. Developing proposed care pathways to the Relevant Services for youth based on results from the chosen assessment tool.
        iii. Proposing the ideal business processes and technology systems for the state to implement to ensure all necessary parties have access to the results from the screening tool.
        iv. Providing recommendations on trainings and support for providers.
2. Mid to Long-term Activities (2027-2028)
    a. Implement new screening tool with early adopter providers in 2027.
    b. Fully implement the new screening tools and processes prior to roll-out of the Relevant Services (2027-2028).

Strategy 2. Ensure consistency and accuracy in screenings and assessments.[3]

1. Short-term Activities (2025)
    a. Engage youth, families, providers, managed care organizations (MCOs) and child-serving agencies to develop a consistent approach to identifying and engaging the Defined Class using evidence-informed screening tools.
    b. Develop a training plan to ensure each provider and system partner has received training based on the chosen assessment tool.
2. Mid-term Activities (2026)
    a. Update the appropriate contracts, service and billing manuals with the chosen assessment tool.
    b. Develop and implement universal training for providers.
    c. Develop and implement quality assurance and accountability structures to ensure consistency and accuracy in assessments.
3. Ongoing Activities
    a. Complete annual review of training plan and ensure that training is kept up to date including a way to disseminate changes and updates.
    b. Provide refresher training annually and when there are changes or updates made.

Anticipated Outcomes of Objective 2

1. Consistent statewide screening, assessment and referral processes will facilitate access to the Relevant Services for the Defined Class.
2. Providers and system partners have a thorough and consistent understanding of the assessment tool and necessary training and support to ensure consistency and accuracy in screenings.

[3] Interim Settlement Agreement Requirement, Section B. Implementation Plan 8. c. Eligibility and Access to Behavioral Health, i.

Objective 3. Ensure the Relevant Services are available to effectively meet the individualized needs of the Defined Class in the least restrictive and most appropriate setting, prioritizing youth and family voice and choice.[4]

This section of the Implementation Plan describes the approach Iowa HHS will take to improve, develop, and strengthen the Relevant Services available to support the Defined Class in the least restrictive setting.

Strategy 1. Improve and strengthen educational materials about EPSDT and processes to access the Relevant Services for the Defined Class.

1. Short-Term Activities (2025)
    a. Publish EPSDT requirements in an updated pediatric provider manual.
    b. Engage MCOs, child welfare social workers, providers including schools and associations to improve access to, and billing of services provided in Iowa.
    c. Pursue changes to school-based health services to maximize support for the Defined Class.
2. Mid-term Activities (2026)
    a. Clarify and strengthen program oversight and supporting business processes to ensure compliance with EPSDT requirements outlined in contracts and EPSDT requirements of the pediatric provider manual.
    b. Evaluate and improve public education materials for youth, families, providers and child-serving agencies about EPSDT and Medicaid services, as well as prior authorizations for those services.

Strategy 2. Implement an improved and strengthened care coordination service array that effectively meets the individualized needs of the Defined Class.

1. Short-term Activities (2025)
    a. Improve and develop case management and care coordination services available to the Defined Class.
        i. Engage stakeholders to evaluate Integrated Health Home performance and leverage recommendations to further strengthen care coordination and case management for the Defined Class.
        ii. Take stakeholder recommendations from the review of the IHH evaluation to create a new approach to intensive care coordination for the Defined Class, consistent with the defined Relevant Services.
        iii. Develop and begin to implement trainings through the newly procured Learning Management System.
    b. Create an Intensive Care Coordination (ICC) Subcommittee of Iowa REACH Implementation Team that will:
        i. Design the ICC service model, consistent with the Relevant Services defined in Appendix A of the Interim Agreement.
        ii. Develop proposed care pathways for youth to access ICC based on results from the chosen assessment tool.
        iii. Propose the ideal business processes and technology systems for the Iowa HHS to implement a single point of accountability for ensuring that medically necessary Relevant Services are accessed, coordinated, and delivered. Specifically, describe how intensive care coordination will be provided to the Defined Class as well as when available through the 1915c home and community-based service waiver.
        iv. Provide recommendations on trainings and support for providers.
2. Mid-term activities (2026)

[4] Interim Settlement Agreement Requirement, Section B. Implementation Plan 8. a. Relevant Services, i and ii.

a. Establish and make publicly available statewide ICC service standards by July 1, 2026, including the following core components:
    i. **Referral and assessment procedures** that describe how the strengths-based, needs driven, comprehensive assessment is used to organize and guide the development of a family-driven, child-focused, person-centered plan (PCP). The PCP will be developed by a care planning team (CPT) made up of a child and family team that brings together individuals selected by the child and family who are committed to them through informal, formal, and community support and service relationships.
    ii. **Eligibility criteria and procedures** for how a youth will receive ICC from a qualified provider when it is determined to be medically necessary based on the outcome of the assessment process, utilizing an appropriate assessment tool, that determines the needs of the child for medical, educational, social, behavioral health, or other services.
    iii. **Intensive care coordination to youth staffing ratio** (i.e., caseload sizes), the frequency and cadence of face-to-face meetings, and the frequency of CPT meetings to ensure high-quality services can be provided to children and families and prevent turnover and burnout of staff.
    iv. **Expectations for crisis and safety plans** based on the child's history and needs, including a sample structure of a crisis and safety plan to ensure consistency of plan elements across the state.
    v. **Quality and accountability expectations** for how care coordinators will work directly with the child and family to implement elements of the PCP and continually prepare, monitor, and modify the PCP in concert with the CPT.
        1. For youth discharged from residential or institutional settings, or other out-of-home placements, the CPT will identify individualized strategies within the PCP to enable the youth to remain at home and in the community and to prevent readmissions to these institutions or residential settings.[5]
        2. For youth ready to transition out of the Iowa REACH Continuum of Care, expectations for how the care coordinator will work with the child and family and CPT to develop a transition plan once it is determined that the child has achieved the goals of the PCP.

3. Long-Term Activities (2027 and beyond)
    a. Implement the Iowa REACH Initiative ICC model with early adopter providers in 2027.
        i. Review results of early adopter implementation and add support and oversight as needed.
    b. Implement statewide coverage of ICC services by July 1, 2028, through the following activities:
        i. Develop standardized protocols and procedures for provision of services.
        ii. Secure funding to support ICC implementation, as needed.
        iii. Procure necessary services from credentialed trainers to provide training and technical assistance on ICC service standards to ensure consistent, standardized, and high-quality service delivery throughout the state.
        iv. Clarify roles and responsibilities for accessing ICC services in appropriate contracts, provider service and billing manuals.
            1. Train MCOs and fee for service on service access requirement.

[5] Interim Settlement Agreement Requirement, Section B. Implementation Plan 8. e. Service Delivery in the Least Restrictive Setting, iii.

2. Ensure documentation and processes to ensure services authorized are timely provided, high quality, medically necessary, appropriate for the child's needs, and within the least restrictive setting.
3. Make the authorization process review criteria public to ensure transparency, clarity, and efficiency, and compliance with the CMS Interoperability and Prior Authorization Final Rule.

c. Monitor network adequacy for the Relevant Services.

Strategy 3. Develop and strengthen the In-Home and Community-Based Services service array that is individualized and strengths-based aimed to correct or ameliorate behavioral health conditions that interfere with a child's functioning.[6]

1. Short-term Activities (2025)
   a. Create a Services and Providers Subcommittee of Iowa REACH Implementation Team and task them to:
      i. By December 31, 2025, design an intensive in-home and community-based service delivery system composed of In-Home and Community-based Supportive and Therapeutic Services (IHCSTS) consistent with best practices and the Relevant Services defined in Appendix A of the Interim Agreement which are aimed to enable the Defined Class to build skills necessary for successful functioning in the home and community and improve the family's or caregiver's ability to help the child successfully function in the home and community.
      ii. Develop proposed care pathways for youth to access IHCSTS based on results from the chosen assessment tool.
      iii. Propose requirements to support furthering the principal of unconditional care.
      iv. Propose the ideal business processes and technology systems for the state to implement these IHCSTS for youth for whom they are determined to be medically necessary.
      v. Provide recommendations on trainings and support for providers.
   b. Create a legislative budget proposal for HCBS waiver redesign that includes alignment of service definitions and limitations and increased access to Respite services.
   c. Increase Respite rates for SFY 2025 with the aim of increasing access.
   d. Identify service gaps to support maintaining the Defined Class in the least restrictive setting.
2. Mid-term Activities (2026)
   a. Establish and make publicly available statewide Intensive In-Home and Community-Based Support and Therapeutic Service standards by July 1, 2026, that:
      i. **Define eligibility criteria and referral processes** for accessing IHCSTS.
      ii. **Identify services that meet IHCSTS** consistent with the Relevant Services defined in Appendix A of the Interim Agreement. This includes identification of the evidence-based practice and corresponding provider qualifications, target population, duration and structure of the services.
      iii. **Describe how IHCSTS services will be delivered** according to the care plan developed by the CPT.
         1. The care plan will identify goals and objectives for all life domains in which the child's behavioral health condition causes impaired functioning, including family life, community life, education, vocation, and independent living, and identifies

[6] Interim Settlement Agreement Requirement, Appendix A, Section A, 2. Intensive In-Home and Community-Based Therapeutic Services

the specific interventions that will be implemented to meet those goals and objectives.

iv. **Describe how IHCSTS will be adapted**, in accordance with best practices, to specific populations having specialized needs, which include, but are not limited to, BIPOC (Black, Indigenous, and people of color) and LGBTQIA+ populations.
    1. Adaptations may include consultation with evidence-based practice model developers on protocol modifications to accommodate and be attuned to populations having specialized needs.
v. **Detail how youth who are discharged** from residential or institutional settings, or other out-of-home placements, receive IHCSTS needed to remain at home and in the community and to prevent readmissions to these institutions or residential settings.
vi. **Identify the youth to IHCSTS provider capacity requirements** to allow staff to work with children and family with appropriate intensity based on medical necessity.

3. Long-Term Activities (2027 and beyond)
    a. Implement the Iowa REACH IHCSTS model with early adopter providers in 2027.
        i. Start by conducting outreach to providers who can serve geographic areas with the highest population of children in the Defined Class.
    b. Implement statewide coverage of IHCSTS by July 1, 2028, through the following activities:
        i. Develop standardized protocols and procedures for provision of services.
        ii. Provide training and ongoing supervision for IHCSTS staff to ensure adherence to established protocols and best practices.
        iii. Develop and deliver specialized training programs focused on transitional care for both members and their families transitioning from institutional settings to IHCSTS. These training sessions should equip providers with the necessary skills and resources to support successful transitions and ongoing care management.
        iv. Implement practice changes and procedural updates to streamline authorization processes for IHCSTS, allowing for greater flexibility in approving and accessing services in a timely manner based on need.
        v. Streamline administrative processes by eliminating prior authorizations for services that are consistently approved or deemed medically necessary based on evidence-based guidelines. This reduces administrative burden, expedites access to care, and enhances the efficiency of service delivery for the Defined Class.
    c. Monitor network adequacy for the Relevant Services.

Strategy 4. Provide services through a Home and Community Based Services 1915 (c) waiver to provide support to the Defined Class in their homes and communities.[7]

As part of the HOME project and class action brought by the Defined Class, Iowa HHS is currently planning to develop two new Medicaid waivers—one serving children and youth ages 0 to 20, and one serving adults ages 21 and older that will replace the current seven existing Medicaid waivers. This age-based waiver model will work in conjunction with covered state plan and EPSDT services to support the Defined Class to help them live successfully in the community, including through providing the waiver services defined in in Appendix A of the Interim Agreement.

1. Short-term Activities (2025)
    a. Engage the public to provide input on waiver redesign to ensure waiver services are designed to meet the needs of members of the Defined Class by September 30, 2024.

[7] Interim Settlement Agreement Requirement, Appendix A. Section B. Waiver Services to Ensure Placement in the Least Restrictive Setting.

i. Conduct tailored outreach to members of the Defined Class, families and caregivers, providers, and advocates as part of waiver redesign communications and public comment processes, including a public comment session specifically on waiver services for the Defined Class.

b. Prepare redesigned waiver service packages and submit waiver applications to the Center for Medicare and Medicaid Services (CMS) by December 31, 2025.

2. Mid-term Activities (2026, pending approval from the Centers on Medicare & Medicaid (CMS))
   a. Work collaboratively with CMS to gain approval of new home and community-based services waiver services and processes including comprehensive assessment, person-centered planning, service delivery and quality monitoring.
   b. Conduct a public outreach campaign to educate youth, families, and caregivers about the redesigned home and community-based waivers using plain language to describe waivers, the services offered, eligibility requirements and how to apply for the waiver.
   c. Engage service providers and provide technical assistance to optimize enrollment of current providers in redesigned waivers.
   d. Monitor network adequacy for services in redesigned waivers.
   e. Implement operational changes to support transition to the new waiver system in 2025.
   f. Increase priority waiver access for individuals with greatest risk of segregated placements (e.g., psychiatric hospitals, emergency rooms, and psychiatric residential treatment facilities).
      i. Develop and implement needs-based waitlist prioritization algorithm based on assessed need.
      ii. Create reserved capacity slots to ensure timely waiver access for members of the Defined Class with highest need.

Strategy 5. Improve, develop and strengthen mobile crisis intervention and stabilization services continuum of care to ensure services are available 24 hours a day, seven days a week, 365 days a year to all children and youth throughout the State at the location where the crisis is occurring.[8]

1. Short-term Activities (2025)
   a. Strengthen and improve current crisis services offered through the implementation of Certified Community Behavioral Health Clinic model of care (demonstration application pending with federal partners) and Crisis Response Services including Mobile Crisis, Crisis Evaluation, Crisis Stabilization Community-Based Services and Crisis Stabilization Residential Services based on findings from the current mobile crisis intervention services evaluation efforts conducted by Health Management Associates (HMA).
   b. Iowa Medicaid will engage in and support the transition planning for the Behavioral Health Services System to ensure the needs of the Defined Class are addressed in the enhancement of the existing array of crisis services.
   c. Identify opportunities to improve Medicaid payment processes for crisis services.
2. Long-term Activities (2026)
   a. Ensure new or updated crisis services conform to the Relevant Services defined in Appendix A of the Interim Agreement for the Defined Class.
   b. Implement and monitor Medicaid payment process improvements for crisis services.

Anticipated Outcomes for Objective 3

1. Establish a foundation for statewide provision of behavioral health services consistent with the Principles under the Interim Settlement Agreement.

[8] Interim Settlement Agreement Requirement, Appendix A. Section A. 3. Mobile Crisis Intervention and Stabilization Services.

2. Develop, establish and maintain a comprehensive service array for each of the Relevant Services in order to provide members of the class with timely access to medically necessary and other home and community-based behavioral health services.
3. Ensure that Medicaid-eligible children receive behavioral health services in the most integrated and least restrictive setting appropriate to their needs and prevent inappropriate and segregated placements.[9]
4. Improve clarity about roles, responsibilities, and processes for ensuring access to the Relevant Services for the Defined Class.

Objective 4. Improve and develop provider capacity to ensure access to all necessary Relevant Services for all youth in the Defined Class, including those with specialized needs.[10]

Iowa HHS is committed to improving the capacity of providers to serve youth with a diagnosed serious emotional disturbance. This section of the Implementation Plan outlines the strategies and activities the state will pursue to improve provider capacity to provide all necessary Relevant Services to the Defined Class. Moving forward efforts to improve provider capacity will include alignment between the Iowa Medicaid Managed Care Organizations, Integrated Health Homes, Certified Community Behavioral Health Clinics and the Behavioral Health Services System.

Strategy 1. Implement new policies and innovations to increase provider capacity and meet the needs of youth with specialized needs.

1. Short-term Activities (2025)
    a. Conduct a Service Access and Provider Capacity Needs Assessment to be completed on October 1, 2025, to thoroughly investigate the Relevant Service needs of the Defined Class with specialized needs, including, but not limited to BIPOC (Black, Indigenous and people of color) and LGBTQIA+ (lesbian, gay, bisexual, transgender, queer or questioning, intersex, asexual and more) populations.
    b. Conduct comprehensive internal Health Equity Assessment. This may include document review, key informant interviews, focus groups, and surveys.
    c. Implement new rates identified through the rate review process and approved by the Iowa Legislature and the Center for Medicare & Medicaid services.
    d. Implement new case management ratios and training for Community Based Case Managers with Managed Care Organizations on July 1, 2025.
    e. Evaluate opportunities to change School Health Services Policies to increase the ability for school-based providers to provide services to Medicaid enrolled youth.
2. Mid-term Activities (2026)
    a. Engage Stakeholders around the Needs Assessment Findings in the first quarter of calendar year 2026 to gather recommendations for new policies and innovations to build network capacity for the Relevant Services.
    b. Evaluate opportunities to maximize the use of peer support and community health workers, especially with youth with specialized needs.
    c. Conduct planned rate review no less than annually.
    d. Evaluate tiering or alternative compensation for providers of individuals with higher level of care needs.
3. Long-term Activities (2027 and beyond)
    a. Develop a strategy to do regular needs assessments.

[9] Interim Settlement Agreement Requirement, Section B. Implementation Plan 8. e. Service Delivery in the Least Restrictive Setting, i and ii.
[10] Interim Settlement Agreement Requirement, Section B. Implementation Plan 8. d. Service Delivery and Quality Improvement, iii.

b. Develop interim goals and numerical benchmarks for service utilization and provider capacity rates.
c. Continue stakeholder engagement to evaluate the impact of rate increases, payment tiers and other policy or process changes.

Strategy 2: Improve available support and trainings for providers.

1. Short-term Activities (2025)
    a. Conduct Service Access and Provider Capacity Needs Assessment to be completed on October 1, 2025, to thoroughly investigate the service needs, use and access of the Defined Class with specialized needs, including, but not limited to BIPOC (Black, Indigenous and people of color) and LGBTQIA+ (lesbian, gay, bisexual, transgender, queer or questioning, intersex, asexual and more) populations.
    b. Engage with providers through standing workgroups to identify support and training needs and explore new ideas for increase provider capacity.
2. Mid-term Activities (2026)
    a. Develop Learning Management System trainings for providers that includes options for trainings that support provider knowledge, skills, and abilities to serve the Defined Class with specialized needs.
    b. Engage providers to assess the effectiveness of provider training efforts.
3. Long-term Activities (2027 and beyond)
    a. Provide ongoing trainings for providers through the Learning Management System.
    b. Engage providers to assess the effectiveness of provider training efforts.

Strategy 3. Assess access to care and network adequacy standards.

1. Short-term Activities (2025)
    a. Implement a new reporting template or data feed to better capture and monitor network adequacy for Medicaid Managed Care Organizations and fee-for-service, which will allow Iowa Medicaid to identify gaps in coverage and providers accepting members.
    b. Work collaboratively with Iowa Medicaid vendors and providers to improve data quality and specificity to include adequate information to ensure compliance with access to care and network adequacy standards.
    c. Evaluate compliance and oversight strategies to ensure access to Relevant Services in compliance with federal/state regulation.
    d. Complete EPSDT review to ensure compliance with Federal guidelines.
2. Mid-term activities (2026)
    a. Modify Managed Care Network Geographic Access requirements to align with final Federal Access Rule.
    b. As part of the External Quality Review, include a review of managed care plan compliance with provider directory requirements.
    c. Evaluate potential options to identify providers with skills and experience serving specialized populations.

Strategy 4. Improve and streamline provider enrollment, contracting, authorization and payment processes.

1. Short-term Activities (2025)
    a. Engage the Services and Providers Subcommittee of Iowa REACH Implementation Team to evaluate opportunities to streamline provider enrollment, credentialing and contracting requirements and processes including, but not limited to
        i. Provider enrollment processes.

ii. Provider screening requirements, including background checks by reliance on Medicare, other state Medicaid and state licensing boards.
iii. Prior authorization requirements and processes.
iv. Maintaining provider information on the use of evidence-based practices.

b. Improve communications and educational materials to support providers and communicate about any changes to provider enrollment, credentialing, and contracting requirements.

2. Mid-term Activities (2026)
   a. Implement changes identified by the Providers and Services subcommittee to facilitate provider enrollment and contracting process to reduce administrative burden and streamline processes.
   b. Determine sufficient provider capacity to provide Relevant Services to the Defined Class, as medically necessary, statewide.
3. Long-term Activities (2027 and beyond)
   a. Implement a new Provider Enrollment Portal.
   b. Ongoing development of sufficient provider capacity to provide Relevant Services to the Defined Class, as medically necessary, statewide.

Anticipated Outcomes for Objective 4

1. Implemented systemic changes to ensure the services and supports that are necessary to maximize the success and development of Medicaid-eligible youth are timely provided. Sufficient qualified provider capacity to meet the Relevant Service needs of the Defined Class.
2. Stronger support and engagement with providers through streamlined administration and trainings.
3. Identify and develop plans to address the needs of populations with specialized needs.

Objective 5. Ensure due process and transparency for Medicaid-eligible youth with behavioral health disorders.[11]

Iowa HHS is committed to ensuring due process and transparency related to services available for the Defined Class. This part of the Implementation Plan describes how the eligibility criteria, assessment tool(s), and utilization review criteria will be disclosed, including the processes, strategies, evidentiary standards, and other factors used to determine eligibility for or limitation of behavioral health services.

Strategy 1. Improve and strengthen current educational materials and requirements related to transparency and due process.

1. Short-Term Activities (2025)
   a. Review and improve information currently available for members on eligibility and services available through the state plan, EPSDT benefit, HCBS waiver via welcome packets, and fee-for-service (FFS) and MCO handbooks.
   b. Work with stakeholders to ensure notices of action (NOA) and other service decision documents clearly communicate meaning of the decision and next steps for members, providers, and case managers.
   c. Review Notice of Adverse Benefit Determination (NOADB), grievance and appeal procedures to ensure notice and appeal rights exist when services are denied, terminated or delayed.
   d. Improve current information about eligibility and utilization review criteria and due process requirements for existing services for the Defined Class through clear contract requirements, provider, and service manuals.

[11] Interim Settlement Agreement Requirement, Section B. Implementation Plan 8. c. Eligibility and Access to Behavioral Health, ii.

Strategy 2. Create structured opportunities for stakeholder engagement to inform the design and implementation of the Iowa REACH Initiative.

1. Short-Term Activities (2025)
    a. Engage youth, families, providers, and child-serving agencies in the work of the Assessment Tool subcommittee to ensure transparency and engagement in the process to choose a uniform assessment tool and develop care pathways for the Defined Class.
    b. Engage youth, families, providers, and child-serving agencies in the work of the Services and Provider Subcommittee to ensure transparency and engagement in the design and implementation of services through the Iowa REACH Initiative.

Strategy 3. Ensure compliance with all legally appropriate, federal and state due process rules and requirements.

1. Short-Term Activities (2025)
    a. Review and ensure the state has all required due process and transparency requirements in contracts and provider manuals.
2. Ongoing Activities
    a. Review and update due process and transparency requirements as federal and state rules and regulations change.
    b. Monitor contractors and providers for compliance with due process and transparency requirements.

Anticipated Outcomes from Objective 5

1. Increase transparency and understanding of Medicaid eligibility and service authorization policies and procedures.
2. Medicaid beneficiaries (including Defined Class members) are aware of their due process rights and the due process policies and procedures so they can exercise their rights.

Goal 2: Develop a quality management and accountability structure that ensures ongoing quality assurance and systems improvement for the Defined Class.

This section of the Implementation Plan describes the strategies and activities that Iowa HHS will undertake to ensure ongoing quality assurance and systems improvement on behalf of members of the Defined Class and their families.

Monitoring the impact of the systems changes and ensuring ongoing continuous improvement in the system will require Iowa HHS to identify and develop quality management tools and measures to monitor, provide, and improve the quality of care and to provide transparency and accountability to, and the involvement of families, children and invested stakeholders.

Strategy 1. Develop and implement an Iowa REACH Initiative Quality Improvement and Accountability (QIA) framework and plan that establishes the approach and elements of performance the state will monitor to determine the quality of the Relevant Services and evaluate whether the Defined Class are achieving improved outcomes.[12]

1. Short-term Activities (2025)
    a. Establish a subcommittee as part of the Iowa REACH Implementation Team with representatives from child-serving agencies, state agencies, counties and providers that deliver care to the Defined Class.
    b. Review and compare quality assurance and accountability approaches and measures among workgroup participants.

[12] Interim Settlement Agreement Requirement, Section B. Implementation Plan 8. d. Service Delivery and Quality Improvement, ii.

c. Develop a collaborative QIA Plan that establishes the approach and expectations for continuous quality improvement and accountability and identifies key performance measures for the Iowa REACH Initiative by December 31, 2025.

2. Mid-term Activities (2026)
   a. Work collaboratively with child-serving agencies, state agencies, counties and providers to prepare for the formal launch of the QIA Plan on July 1, 2026, in alignment with the launch of the Behavioral Health Services System and the redesigned Medicaid HCBS waiver structure.
3. Long-term Activities (2027).
   a. Annually review and update the QIA Plan to align the key performance indicators for strengthened and improved services as they are implemented.

Strategy 2. Strengthen and improve data collection capacity and processes to support successful implementation of the Quality Improvement and Accountability Plan.[13]

Improving data collection capacity and process will be key to ensuring Relevant Services are provided to the Defined Class Consistent with the requirements of the Interim Agreement, the below strategies will support Iowa HHS to improve the collecting, tracking, analyzing, and using claims and encounter data, utilization data, and expenditure data to determine how well the system is performing.

1. Short-term Activities (2025)
   a. Evaluate the current data collection capacities and processes for data elements identified in the QIA Plan to determine what data is missing or not available and needed.
      i. Develop consistent definitions and terms for all elements identified in the Quality Improvement and Accountability Plan.
      ii. Define baseline infrastructure for collecting all needed data elements.
2. Mid-term Activities (2026)
   a. Make changes to key data collection activities to build capacity and improve data quality.
   b. Define and execute new contract requirements among child serving providers and relevant contractors who will provide data elements included in the QIA Plan.
   c. Develop new internal processes for cleaning, managing and analyzing the data elements in the QIA.
   d. Develop data governance rules and data dictionaries in alignment with the launch of the Behavioral Health Services System and the redesigned Medicaid HCBS waiver structure.
3. Long-term activities (2027)
   a. Build any new required systems infrastructure to support the ongoing collection and management of data elements in the QIA Plan.

Strategy 3: Develop public reporting mechanisms to demonstrate statewide performance concerning children's behavioral health measures and outcomes for members of the Defined Class.[14]

Iowa HHS has developed and will continue to maintain a publicly available data dashboard, updated quarterly. As systems changes are implemented the dashboard will be updated to show statewide performance concerning children's behavioral health measures, including the utilization of the Relevant Services. As required by the Interim Settlement Agreement data made available to the public will include:

- The characteristics of children screened/assessed and determined eligible for Relevant Services, the specific behavioral health services children are receiving, how much of each service they are receiving, who is receiving these services (e.g., child welfare involved children, et al.),

[13] Interim Settlement Agreement Requirement, Section B. Implementation Plan 8 f. Data Collection, I and g. Reporting and Monitoring of Implementation Plan, i.
[14] Interim Settlement Agreement Requirement, Section B. Implementation Plan 8 f. Data Collection, ii and g. Reporting and Monitoring of Implementation Plan, ii.

- The timeliness with which children receive each service, the locations in which children receive behavioral health services, the availability of behavioral health services in the least restrictive setting appropriate to children's needs, the scope and intensity (e.g., how many hours per month and how long) of each of the services,
- The outcomes for children and families, average monthly cost per child, and average monthly service utilization per child.

The following activities will support quality improvement and accountability.

1. Short-term Activities (2025)
    a. Evaluate current data dashboards for gaps based on public reporting requirements of settlement agreement.
    b. Engage individuals with lived experience, families, providers and other stakeholders to provide feedback on important data for public dashboard reporting.
    c. Develop templates for quarterly reporting on data elements required by the Interim Settlement Agreement and within the Quality Improvement and Accountability Plan.
    d. Develop strategies for sharing public reports with all interested stakeholders.
2. Mid-term activities (2026)
    a. Publish new dashboards and reports.
    b. Align public reporting plans with the new Behavioral Health Services System and the redesigned Medicaid HCBS waiver structure.

Conclusion

Iowa HHS anticipates that it will successfully execute on the Goals and Objectives outlined in this Implementation Plan, and any other requirements outlined in a final Settlement Agreement, and through successful execution will demonstrate the state has substantially complied with the requirements to improve the delivery of intensive home and community-based behavioral health services for the Defined Class.

Appendix.

CURRENT AND PROPOSED WAIVER SERVICES FOR THE DEFINED CLASS, IN ADDITION TO EPSDT COVERED RELEVANT SERVICES FOR THE DEFINED CLASS

Existing waiver services (Children's Mental Health waiver)

- Respite: Services provided to the member that give temporary relief to the usual caregiver and provide all the necessary care that the usual caregiver would provide during that period.
- Environmental Modifications and Adaptive Devices: Items installed or used within the member's home that address specific, documented health, mental health, or safety concerns. Limited to additional services not otherwise covered under the state plan, including EPSDT.
- In-Home Family Therapy: Skilled therapeutic services to the member and family that will increase their ability to cope with the effects of serious emotional disturbance on the family unit and the familial relationships.
- Family and Community Support Service: Services provided in the home with the family or in the community with the child; practicing and implementing coping strategies identified by mental health therapists, including through In-home Family Therapy. Practical application of the skills and interventions that will allow the family and child to function more appropriately.
- Medical Day Care for Children: Supervision and support of children (aged 0-18) residing in their family home who, because of their complex medical or complex behavioral needs, require specialized exceptional care that cannot be served in traditional childcare settings.

Proposed future waiver services (Children and Youth Waiver)[15]

- Daily Activities and Care
  - Home-Delivered Meals
  - Medical Day Care for Children
  - Respite
  - Supported Community Living
  - Transportation
- Help with Health Needs
  - Positive Behavioral Support and Consultation
  - Family and Community Support Service
  - Interim Medical Monitoring and Treatment
  - In-Home Family Therapy
- Equipment and Modifications
  - Assistive Devices
  - Enabling Technology for Remote Support
  - Home and Vehicle Modifications
  - Personal Emergency Response System
- Day Services
  - Day Habilitation
  - Prevocational Services and Supported Employment
- Residential-Based Supported Community Living
- Self-Direction Supports

[15] Note: the proposed future child and youth waiver would serve children with a range of disabilities/diagnoses, including SED. A child with SED would not necessarily be eligible for ALL services listed here—services would be approved as part of the individual's care plan, based on their need for the service.

- Financial Management Service
- Independent Support Broker
- Independent Directed Goods and Services

- Other Services
  - Community Transition Services
  - Crisis Planning and Support
  - Peer Mentoring

ADDENDUM A.3 TO THE BRIEF OF *AMICI CURIAE*

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

Catherine Hutchinson, et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Civil Action No. 07-30084-MAP
	)	
Deval L. Patrick, et al.,	)	
	)	
Defendants.	)	

MEMORANDUM AND ORDER RE:
JOINT MOTION FOR DISMISSAL
(Dkt. No. 105)

September 23, 2021

PONSOR, U.S.D.J.

On May 17, 2007, Plaintiffs filed a class action lawsuit seeking to compel Defendants to comply with certain federal statutory mandates by offering, in integrated community settings, services and programs for individuals with acquired brain injuries ("ABI"). *Hutchinson ex rel. Julien v. Patrick,* 636 F.3d 1 (1st Cir. 2011). On July 11, 2013, this court entered an order approving an Amended Settlement Agreement ("Agreement"), negotiated by the parties and resolving all claims in this matter. (Dkt. 91.)

Paragraph 51 of the Agreement states that the court shall dismiss this action with prejudice following the passage of six years "provided that the defendants have performed their obligations under this Agreement and at that time are in substantial compliance with all obligations under this Agreement." (Dkt. 106-1, Exhibit A, 17.)

The parties now agree that Defendants have complied with this provision of the Agreement and are entitled to dismissal of this lawsuit with prejudice. Having reviewed the

parties' submissions, and heard oral argument remotely, the court hereby finds that Defendants have performed their obligations as set forth in the Agreement. Specifically, Defendants have (1) substantially expanded the Commonwealth's home and community-based service system for class members suffering ABI, (2) conducted extensive outreach to inform class members about opportunities for community living, (3) coordinated the transfer of class members who choose to transition to the community, and (4) provided a range of services and supports to persons with ABI in the community. The result has been a movement of thousands of persons out of nursing home and institutional settings to significantly improved community placements.

The parties, their representatives, and counsel on both sides have the court's deep respect for their hard work, resulting in a very positive outcome for this vulnerable population. Defendants' good faith is demonstrated by their commitment to continuing to improve and expand community services for persons suffering ABI even beyond the framework of the Agreement.

For all these reasons, the parties' Joint Motion for Dismissal (Dkt. 105) is hereby ALLOWED with prejudice. This case may now be closed.

It is So Ordered.

/s/ Michael A. Ponsor
MICHAEL A. PONSOR
United States District Judge

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

APPEARANCE OF COUNSEL FORM

BAR ADMISSION & ECF REGISTRATION: If you have not been admitted to practice before the Fourth Circuit, you must complete and return an Application for Admission before filing this form. If you were admitted to practice under a different name than you are now using, you must include your former name when completing this form so that we can locate you on the attorney roll. Electronic filing by counsel is required in all Fourth Circuit cases. If you have not registered as a Fourth Circuit ECF Filer, please complete the required steps at Register for eFiling.

THE CLERK WILL ENTER MY APPEARANCE IN APPEAL NO. 25-1239 as

☐ Retained ☐ Court-appointed(CJA) ☐ CJA associate ☐ Court-assigned(non-CJA) ☐ Federal Defender

☐ Pro Bono ☐ Government

COUNSEL FOR: The National Health Law Program; the Arc of the United States; The Judge David L. Bazelon Center for Mental Health Law; and The Center for Public Representation as the
(party name)

☐ appellant(s) ☐ appellee(s) ☐ petitioner(s) ☐ respondent(s) ☑ amicus curiae ☐ intervenor(s) ☐ movant(s)

/s/ James Michael Showalter
(signature)

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CERTIFICATE OF SERVICE *(required for parties served outside CM/ECF)*: I certify that this document was served on 5/20/2025 by ☐ personal delivery; ☑ mail; ☐ third-party commercial carrier; or ☐ email (with written consent) on the following persons at the addresses or email addresses shown:

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5/20/2025
Date