L. J. v. Massinga Independent Verification Agent

CERTIFICATION REPORT FOR DEFENDANTS' 67th COMPLIANCE REPORT

July 1, 2021 – December 31, 2021

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

EXECUTIVE SUMMARY

This is the Independent Verification Agent's (IVA) Certification Report for the Defendants' 67th Compliance Report covering the six-months compliance reporting period of July 1 – December 31, 2021. Defendants' final report was received by the IVA on June 14, 2022. Like reports from the previous two reporting periods, this report was submitted far into the next reporting period. Although limited data is presented in this report, the delay by the Defendants results in data that is in some cases over a year old. Additionally, these delayed reports do not include more recent developments in data, policy, and practice.

COMPLIANCE WITH THE MODIFIED CONSENT DECREE

Since the signing of the Modified Consent Decree (MCD) in October 2009, only four of the 40 Exit Standards have ever been certified as compliant, and, since 2016, only two. Unfortunately, this trend continues. For this reporting period, one Exit Standard will be certified as compliant. The lack of certification is rooted in several problem areas including lack of proper documentation in the Child Juvenile and Adult Management System (CJAMS); failure to meet all elements of the measure as required by the MCD; inability to report data out of CJAMS; delays in report development and validation; and invalid, inaccurate, or unreliable data.

Turnover of staff at both the state and local levels continues to be a problem. Staff turnover at DHS, particularly those staff who work on Maryland's Total Human-Services Integrated Network (MD THINK), impacts the development of CJAMS reports required to report on the MCD measures. This creates barriers to knowing where BCDSS should focus their practice improvement efforts to ensure that the children and families involved in the child welfare system, some of Baltimore's most vulnerable residents, receive the support and services they need.

Turnover of caseworkers and supervisors at the local level results in high caseloads, further complicating the necessary work of service provision and CJAMS documentation that must be done in order for accurate, valid, and reliable data to be extracted from the CJAMS system. The IVA recognizes that staffing shortages in social services exist nationwide. This challenge requires creative and thoughtful solutions, as well as obvious ones such as increased salaries. It is imperative that Defendants urgently consider other personnel changes and supports that may help overloaded caseworkers better support children and families.

DATA COLLECTION AND REPORTING

Progress on the goal of having accurate, reliable, and valid data from CJAMS for L.J. (and other) reporting continues to be slow. A significant barrier is the backlog of needed changes to the CJAMS user interface. Needed changes include both those needed to correct defects and those needed to enhance current functionality. The concerns expressed in the previous IVA reports about the impacts on data availability have been borne out, and without significant additional resources, it is unlikely that there will be reasonably accurate, reliable, and valid reporting on all measures until well into 2023. Neither party to this lawsuit should find this situation acceptable.

CHILD WELFARE POLICY AND PRACTICE ISSUES

The Defendants identified increasing the percentage of kinship care placements as a priority in their efforts to improve placement stability and outcomes for children. By prioritizing kinship care many children can avoid removal from their extended families and communities, avoid separation from siblings, and avoid the needless trauma of moving to a stranger's home, or, worse, group care. It is imperative that kin receive the support they need when stepping in to care for children. One way to do this is through the licensing process. Without a license, kin caregivers

receive significantly less monthly financial and caseworker support than licensed kin homes. Unfortunately, both kin placements and licensing of kin providers remain low, 35% and 25%, respectively. The IVA hopes to see plans to address barriers to kin placement and licensing in the next report.

The IVA remains concerned about the availability of placements for some children, particularly those with complex mental health needs, LGBTQ youth and large sibling groups. The lack of appropriate placements for children and youth with significant mental health problems, especially when those problems are complicated by developmental disabilities, is particularly pressing. Some of these children have suffered multiple traumas and been further traumatized by instability in the foster care system, having been ejected or run away from multiple placements.

Quality mental health care services and continuity of services for children are in short supply or inaccessible, further exacerbating placement issues. In October 2021, Defendants proposed the development of a new program to provide direct mental health services to some children and youth in BCDSS care. Director Stocksdale convened a small group including the IVA, Plaintiffs' counsel, DHS/DSS staff, and Behavioral Health Systems Baltimore (BHSB) to discuss this proposed program. This group met regularly over several months in the first part of 2022. Plaintiffs' counsel and IVA were given the opportunity to offer input into program elements and requirements. A Request for Proposals (RFP) was released in spring 2022, and providers recently have been selected to begin taking referrals October 1, 2022.

CERTIFICATION OF MEASURES AND ADDITIONAL COMMITMENTS

Defendants have requested certification of three Exit Standards. The IVA has certified one of these Exit Standards. Explanation for why the IVA is unable to provide certification for the other Exit Standards is provided in the body of this report. Of the 22 Additional Commitments

included in the MCD, the IVA has certified five. Detailed explanations for those Additional Commitments not certified are provided in Appendix 1 attached to this report.

CONCLUSION

More than a year ago, the parties agreed to a set of final measure instructions to develop accurate, valid, and reliable data. These measure instructions outline practices to be implemented to ensure proper documentation in CJAMS and other reporting systems by the Defendants. However, for the vast majority of the measures, valid, accurate and reliable data is still not available. Without this data, progress by Defendants cannot be measured, tracked, and adjusted to ensure that the children and youth in Baltimore City's child welfare system are receiving the services that they and their families need and deserve.

IVA CERTIFICATION REPORT FOR

DEFENDANTS' 67th COMPLIANCE REPORT

This is the IVA's Certification Report for the Defendants' 67th Compliance Report covering July 1, 2021 to December 31, 2021.

1. INTRODUCTION

Defendants Baltimore City Department of Social Services (BCDSS) and Maryland Department of Human Services (DHS) provided their 67th Report to the IVA on June 14, 2022. The 67th Report is the 26th Compliance Report since the Modified Consent Decree (MCD) was entered in October 2009. The original L.J. v. Massinga case was filed in 1984 and alleged a wide range of problems with the conditions of care for children in the legal custody of the Baltimore City Department of Social Services. After the entry of a preliminary injunction in favor of the children, the first consent decree was finalized in 1988, and modified in 1991 to address the needs of children placed with relatives. Although both decrees ordered specific actions to be taken by Defendants to improve the safety, permanency, and well-being of the children in their custody, the decrees did not contain specific targets for compliance with those requirements. For example, while the original decree required that every child have an initial health screen within five days of entering into foster care, it did not specify how to determine compliance nor what level of compliance, e.g., 100% of children, 90% of children, or some other compliance level, would be considered sufficient.

Over the next decade and a half, Defendants filed the required semi-annual reports, but no further court action took place. In 2008, Plaintiffs filed a Motion for Contempt, alleging violations of nearly every requirement of the original court orders. The Motion alleged that, based upon data

gathered from Maryland Public Information Act requests, the high level of compliance claimed in the recent semi-annual reports was inaccurate. The parties entered into lengthy facilitated negotiations, and a new Modified Consent Decree, the current one, was entered by the Court in October 2009. Unlike the earlier orders, the MCD contains specific outcomes to be achieved prior to termination of the case and 40 Exit Standards which comprise the measurement standards for achievement of those outcomes. When all of the outcome requirements have been met for three consecutive reporting periods, Defendants may ask the Court to terminate the MCD.

II. BCDSS AND DHS LEADERSHIP

Since the signing of the MCD in October 2009, there have been multiple changes in leadership at the state and local levels including four DHS Secretaries and six BCDSS Directors. Brandi Stocksdale was appointed Director of the BCDSS in November 2020. Since her appointment, Ms. Stocksdale has facilitated greater transparency in the work of BCDSS and developed a productive working relationship with both the IVA office and Plaintiffs' counsel. The stability and growth of her leadership team has been valuable, particularly during the pandemic.

In the past year, turnover of high-level management has continued at the Department of Human Services (DHS). Michelle L. Farr, Executive Director of the Social Services Administration (SSA) left DHS in February 2022. Ms. Farr had joined DHS in August 2019 as the Deputy Executive Director of Programs & Outcomes Improvement and then became SSA's Executive Director in November 2019 replacing Rebecca Gaston Jones. Denise Conway, the Deputy Director of Programs for SSA, was appointed as the new Executive Director in February 2022. Deputy Director Conway is the third Executive Director of SSA since 2019. Dr. David Rose left the position of State Medical Director at the Social Services Administration in August

2021 after two and a half years and was replaced by Dr. Richard Lichenstein in January 2021. DHS announced the departure of Netsanet Kibret, Deputy Secretary of Programs at DHS on August 18, 2022. She is the fifth person in this position in the last five years.

Additional turnover is anticipated with the change of administration following the gubernatorial election in November 2022. It seems likely that this turnover will create additional delays at the State level, particularly for promised revamping of the rate-setting process for contracting with placement providers and for data production, processes that are already proceeding much too slowly. Hopefully, the current administration will work with the incoming administration to ensure a smooth transition and continuing efforts to comply with the MCD.

III. DEFENDANTS' COMPLIANCE WITH THE MCD

A. Timeliness of Defendants' Report

Defendants' report was received by the IVA on June 14, 2022, five and a half months after the end of the reporting period. While the MCD does not specify a timeline for Defendants' report submission following the end of a reporting period, this length of time between the end of the reporting period and the submission of the report to the Plaintiffs and IVA is excessive for a six-months reporting cycle. It results in the IVA reviewing data for certification that is over a year old when the IVA begins work on the certification report. This issue has been raised repeatedly in previous IVA reports and continues to be of concern. The IVA again requests more timely submission of reports by the Defendants.

B. MCD Measure Certification for 67th Reporting Period

Twelve years after the MCD was signed, compliance has yet to be achieved for any of the 28 outcomes in the MCD. Compliance with the outcomes is achieved when the Exit Standards associated with that outcome are met for three consecutive reporting periods. There are a total of 40f Exit Standards in the MCD. The MCD also requires compliance with 86 Internal Success Measures (ISM)[1] as well as 22 Additional Commitments and various other reporting requirements. The data for reporting on the Exit Standards and Internal Success Measures comes primarily from three sources: (1) CJAMS (Child, Juvenile, and Adult Management System), Maryland's human services database system; (2) QSR (Quality Service Reviews), intensive case reviews of a random sample; and (3) other miscellaneous sources, including data from human resources and training.

For the 67th reporting period, the Defendants provide data for more measures than in the 66th report. However, most of this data cannot be certified as accurate, valid, or reliable for the many reasons stated in the Defendants' own 67th Report, pp. 69-92. These reasons include:

- The [data] report has been developed but has not been validated.
- The report has been developed but is currently known to be inaccurate, and revisions are required to produce accurate data.
- The report has been developed and is pulling data accurately, but staff have not been trained in proper documentation.
- The report is completed, but adequate training was [only] recently developed to ensure accurate CJAMS documentation.

[1] 26 of the ISM are exactly the same as the associated Exit Standards. Therefore, there actually are only 60 independent ISM for Measurement and reporting purposes for a total of 100 separate measures for which reports must be designed and validated.

- State policy was issued during the reporting period that required staff be retrained on the CJAMS documentation.
- The report has been developed, but system fixes to allow accurate reporting were not made until late 2021 or into 2022.

More than 30 (20%) of the measures were reported as "TBD" for the 67th reporting period, ending December 31, 2021. As late as September 2022, at least 11 CJAMS reports still have not been completed. Even those reports which have been developed cannot be certified as accurate, reliable and valid due to errors in the original specifications and report development and subsequent changes to the CJAMS application.

For the 67th Report, Defendants are seeking certification of three Exit Standards (52, 121, 126) and related Internal Success Measures (49, 50, 51, 117, 118, and 124). Certification of these measures will be discussed in Section VI of this report.

C. Table of Defendants' Data for 65th through 67th Report Periods

In their 67th Report, Defendants do not provide a full table of data on all of the MCD Exit Standards and Internal Success Measures. The measures are split between a section at the beginning of the report for those measures derived from Quality Service Reviews (QSR) and a section at the end of the report providing data for those measures derived from CJAMS and other sources. This method of presentation results in missing measure numbers in the table and is confusing and difficult to follow. The IVA asks that all of the data be presented together in the data table in following reports. In addition, Defendants do not provide data from any prior reports for comparison purposes. For easier reference, the entire table of measures derived from all sources of data and with data from the 67th and two prior reporting periods is included here.

Measure		Data Source	65th	66th	67th
			2020-2	2021-1	2021-2
1	% of children in family preservation that enter OHP.	CJAMS	TBD	7.70%	TBD
2	% of children and families in family preservation that timely received services identified in the case plan.	QSR	TBD	TBD	TBD
3a	**90 % of children and families in family preservation had a case plan.**	**CJAMS**	**TBD**	**2.48%**	**TBD**
3b	**90 % of children and families in family preservation had a case plan.**	**QSR**	**TBD**	**TBD**	**TBD**
4	**85 % of children and families in family preservation timely received the services identified in the case plan.**	**QSR**	**TBD**	**TBD**	**TBD**
5	Average length of stay for children in OHP (in months).	CJAMS	TBD	Avg LOS = 35 mos Median LOS = 28 mos	Avg LOS = 36 mos Median LOS = 29 mos
6	% of children who had a comprehensive assessment within sixty days of placement.	CJAMS	TBD	11.57%	TBD
7	% of all children with a permanency plan of reunification for whom BCDSS had a service agreement with the child's parents or guardians or for whom BCDSS made reasonable efforts to get the child's parents or guardians to enter into a service agreement.	QSR	TBD	TBD	13%
8	% of all children for whom BCDSS provided referrals for services identified in the child's parent's or guardian's service agreement.	QSR	TBD	TBD	7%
9	% of cases that had a team decision-making meeting when the child is at risk of a placement disruption.	CJAMS	TBD	TBD	TBD
10	% of TPR petitions filed that were filed on time.	Legal Services	TBD	79.25%	82%
11	% of children who, after twenty-four months in care, had a case review every ninety days to resolve barriers to permanency.	CJAMS	TBD	TBD	0%
12	% of all children with a permanency plan of reunification for whom BCDSS facilitated a visit with the child's parents once per week.	CJAMS	TBD	TBD	TBD
13	% of applicable children for whom, where the child's paternity had not been established, BCDSS sought to establish the child's paternity within ninety days of the child's entry into OHP.	Legal Services	TBD	TBD	100%
14	% of children for whom BCDSS searched for relatives or other resources.	QSR	TBD	TBD	24%

	Measure	Source	65th	66th	67th
15	**90 % of children in OHP had a case plan.**	**QSR**	**TBD**	**TBD**	**5%**
16	**90 % of children in OHP and their families timely received the services identified in their case plans.**	**QSR**	**TBD**	**TBD**	**7%**
17	% of children ages twelve and over who participated in case planning meetings.	CJAMS	TBD	TBD	69%
18	% of all new entrants for whom a family involvement meeting was held within seventy-two hours of placement.	CJAMS	TBD	0.34%	TBD
19	% of all children for whom case planning meetings included family members.	CJAMS	TBD	TBD	57.99%
20	**Beginning July 1, 2010, for 85 % of children, BCDSS had a family involvement meeting at each critical decision-making point. [Each of parts 20A-D must reach 85%.]**	**CJAMS**	**TBD**	**TBD**	**TBD**
20A	**New entries into OHP for whom an FTM was held 3 days before or after date of entry into OHP**	**CJAMS**			**TBD**
20B	**Number of placement changes for which an FTM was held within 45 days prior to the placement change or up to 10 days after**	**CJAMS**			**TBD**
20C	**Permanency change: within 90 days prior to a permanency change for a child in OHP.**	**CJAMS**			**0.5%**
20D	**Transitioning to independence: at least annually for a youth in OHP aged 14 – 20 who has been in OHP for at least 6 months.**	**CJAMS**			**0.8%**
21	% of children whose case plan was completed within sixty days of placement.	CJAMS	TBD	TBD	4.96%
22	% of children whose case plan was updated every six months.	CJAMS	TBD	TBD	3.34%
23	% of children for whom BCDSS reported to the child's parents, the parents' attorney, and the child's attorney any intention to request a change in the permanency plan at least ten days prior to the court review.	Legal Services	TBD	TBD	77.36%
24	**90 % of children had a case plan that was completed within sixty days of the child's entry into OHP and which was updated every six months.**	**CJAMS**	**TBD**	**TBD**	**3.65%**
25a	% of children ages fourteen and over who had a transition plan for independence included in the child's case plan and were timely receiving the services identified in the case plan.	CJAMS	TBD	TBD	16.50%
25b	% of children ages fourteen and over who had a transition plan for independence included in the child's case plan and were timely receiving the services identified in the case plan.	QSR	TBD	TBD	0

	Measure	**Source**	**65th**	**66th**	**67th**
26	% of emancipated youth who reported receiving services designed to prepare them for independence.	CJAMS	TBD	TBD	TBD
27	% of youth with a mental illness or a developmental disability who need a residential facility, residential supports, or day programming or supported employment services after they turn twenty-one who received a referral, and who had a transition plan to an alternative service provider at least two years prior to their twenty-first birthday.	Innovations (QA)	TBD	TBD	93.44%
28	Number of youth, ages eighteen to twenty-one, who exited OHP through rescission.	Legal Services	4	1	0
29a	**90 % of children ages fourteen and over had a transition plan included in the child's case plan and timely received the services identified in the case plan.**	**CJAMS**	**TBD**	**TBD**	**16.50%**
29b	**90 % of children ages fourteen and over had a transition plan included in the child's case plan and timely received the services identified in the case plan.**	**QSR**	**TBD**	**TBD**	**0%**
30	% of all children who were placed in: (a) family settings; (b) with relatives; (c) in congregate care; and (d) in other settings (by type).	CJAMS	TBD	TBD	
	(a) Family Settings				44%
	(b) Relatives				31%
	I Congregate Care				8%
	(d) Independent Living				Not Reported
	I Other (by type)				3%
31	% of all children in OHP placed with siblings.	CJAMS	TBD	TBD	42.20%
32	% of all children in congregate care who had a step-down plan.	CJAMS	TBD	TBD	TBD
33	**90 % of all children were placed promptly in the least restrictive and appropriate placement based on their individualized needs.**	**QSR**	TBD	**TBD**	**80%**
34	Number of children placed in congregate care by age groups: (a) under seven; and (b) seven to twelve.				
	(a) Children under seven placed in congregate care	CJAMS	TBD	TBD	1
	(b) Children seven to twelve placed in congregate care	CJAMS	TBD	TBD	19
35	% of children under age thirteen placed in congregate care for whom the placement was medically or therapeutically necessary and the placement included services that met the child's needs.	CJAMS	TBD	TBD	0%

	Measure	Source	65th	66th	67th
36	**For 99% of children under age thirteen placed in congregate care, the placement was medically or therapeutically necessary and the placement included services that met the child's needs.**	**CJAMS**	**TBD**	**TBD**	**0%**
37	Number of placements available to BCDSS by type.	CJAMS	TBD	TBD	TBD
38	Number of emergency foster homes on retainer and the number of beds available in each home.	CJAMS	0	0	0
39	**The array of current placements matched the recommendation of the biennial needs assessment.**	**TBD**	**TBD**	**TBD**	**TBD**
40	% of all children who have service needs identified in their case plans.	QSR	TBD	TBD	5%
41	% of all children for whom identified service needs were followed by timely and appropriate referrals.	QSR	TBD	TBD	7%
42	% of children who receive services necessary and sufficient to meet the child's needs and to support stability in the least restrictive placement.	QSR	TBD	TBD	53%
43	% of children not placed with their siblings who have visitation with their siblings twice a month.	CJAMS	TBD	TBD	1.75%
44	**90 % of children and caregivers received services necessary and sufficient to meet their needs and to support stability in the least restrictive placement.**	**QSR**	**TBD**	**TBD**	**53%**
45	% of kinship care providers who received written notification of the right to apply for foster home licensing within ten days of placement.	CJAMS	TBD	45.1% (sic) (QA)	12.70%
46	% of kinship care providers who received written notification of BCDSS training opportunities.	Innovations (QA)	TBD	36.40%	43.98%
47	% of kinship care providers who reported having been informed about training and licensing opportunities.	Innovations (QA)	TBD	87%	88.38%
48	**90 % of kinship care providers received written notification of the right to apply for foster home licensing within ten days of placement.**	**CJAMS**	TBD	**56.1% (sic) (QA)**	**12.70%**
49	Number of Special Support team positions funded by the Department, by type.	Innovations (QA)	TBD	16	18
50	Number of Special Support team positions filled, by type.	Innovations (QA)	TBD		
	Education			4	5
	Employment			1	1
	Housing			1	1
	Housing and Employment			4	4
	Independent Living			1	1

	Measure	Source	65th	66th	67th
50 cont'd	Ready by 21 Specialist/SOAR/SSI			2	2
	Developmental Disabilities			1	1
	Substance Use Disorder			1	2
	Mental Health Navigator			1	1
51	MCDSS MS-100 (job descriptions for all positions).	Innovations (QA)	TBD	100%	Posted MS 22 (Position Descriptions)
52	**BCDSS employed a staff of non-case carrying specialists to provide technical assistance to caseworkers and supervisors for cases that require specialized experience and/or knowledge.**	**Innovations (QA)**	**TBD**	**Please see the data report that identifies each specialist and their supporting information**	**Yes**
53	% of all foster home applications that were approved/denied within 120 days of application.	CJAMS	TBD	TBD	47.95%
54	% of all foster home caregivers who received all training required by law.	CJAMS	TBD	TBD	TBD
55	Number of foster homes licenses rescinded by the Department due to lack of compliance.	CJAMS	TBD	TBD	13
56	% of all foster homes and kinship care placements that met the COMAR licensing requirements.	CJAMS	TBD	TBD	TBD
57	**95 % of all foster homes and kinship care placements met all legal requirements.**	**CJAMS**	**TBD**	**TBD**	**TBD**
58	**90 % of all foster homes were approved and reapproved on a timely basis.**	**CJAMS**	**TBD**	**TBD**	**29%**
59	% of all placements in which the caregivers received a complete Child Placement Information Form at the time of placement.	CJAMS	TBD	TBD	TBD
60	**95 % of caregivers had been provided all available information about the child's status, background, and needs.**	**CJAMS**	**TBD**	**TBD**	**TBD**
61	Number of children in OHP for whom a CPS report was made.	CJAMS/Innovations (QA)	TBD	TBD	78
62	Number of children in OHP for whom a CPS investigation was opened.	CJAMS	TBD	TBD	127
63	Number of children in OHP for whom a report of maltreatment while in OHP was indicated.	CJAMS	TBD	TBD	72
64	% of CPS investigations which were initiated in a timely manner.	CJAMS	TBD	TBD	77.95%
65	**99.68 % of children in OHP were not maltreated in their placement, as defined by federal law.**	**CJAMS**	**TBD**	**TBD**	**96.49%**

	Measure	Source	65th	66th	67th
66	**In 95 % of cases of alleged maltreatment of a child in OHP, BCDSS provided the child's attorney and Plaintiffs' counsel the report of the alleged maltreatment within five days of the report and the disposition within five days of its completion.**	**Legal Services**	**TBD**	**TBD**	**A. Report: 73.57% B. Disposition: 14.29%**
67	Number of children who spend four hours or more in an office, motel, or unlicensed facility.	Innovations (QA)	TBD	23	41 (96 incidents)
68	**99.8 % of children in OHP were not housed outside regular business hours in an office, motel, hotel, or other unlicensed facility. If any child is so housed, BCDSS shall notify Plaintiffs' counsel within one working day of the reasons for the placement, the name of the child's CINA attorney, and the steps that BCDSS is taking to find an appropriate placement. Barring extraordinary circumstances, no child may be housed in an office for consecutive nights.**	**Innovations (QA)**	**TBD**	**99.25%**	**A. Not Housed: 98.06% B. Timely Reports: 76.77%**
69	% of children ages twelve and over who participated in placement decisions.	CJAMS	TBD	TBD	TBD
70	**90 % of children ages twelve or over participated in placement decisions.**	**CJAMS**	**TBD**	**TBD**	**TBD**
71a	% of children who had documented visits from their caseworker once monthly in the child's placement.	CJAMS	TBD	See 72 a	See 72a
71b	% of children who had documented visits from their caseworker once monthly in the child's placement.	QSR	TBD	TBD	57%
72a	**95 % of children had documented visits from their caseworker once monthly in the child's placement.**	**CJAMS**	**TBD**	**Jan 96% Feb 95.9% Mar 96.8% Apr 95.7% May 94.5% June 95.1% (Avg 95.7%)**	**July 95.2% Aug 96.88% Sep 96.16% Oct 93.9% Nov 91.3% Dec 93.2% (Avg 94.44%)**
72b	**95 % of children had documented visits from their caseworker once monthly in the child's placement.**	**QSR**	**TBD**	**TBD**	**57**
73	% of new entrants who received an initial health screen within five days of placement.	CJAMS	TBD	95.3% (MATCH)	84.93%

	Measure	Source	65th	66th	67th
74	% of cases in which children received appropriate follow-up when the initial health screen indicated the need for immediate medical attention.	CJAMS	TBD	98.1% (MATCH)	0%
75	**Beginning July 1, 2009, 95 % of new entrants to OHP received an initial health screen within five days of placement.**	**CJAMS**	**TBD**	**95.3% (MATCH)**	**84.93%**
76	% of new entrants that received a comprehensive health assessment within sixty days of placement.	CJAMS	TBD	68.8% (MATCH)	5.91%
77	% of all children that had a comprehensive health plan.	CJAMS	TBD	TBD	5.96%
78	% of children whose case plan team meeting included a discussion of the child's comprehensive health assessment.	CJAMS	TBD	TBD	0%
79	**Beginning July 1, 2009, 90 % of new entrants into OHP received a comprehensive health assessment within sixty days of placement.**	**CJAMS**	**TBD**	**68.8% (MATCH)**	**5.91%**
80	Beginning July 1, 2009, % of children entering OHP who received timely periodic EPSDT examinations, and all other appropriate preventive health assessments and examinations, including examinations and care targeted for adolescents and teen parents.	CJAMS	TBD	76.9% (MATCH)	0%
81	Beginning July 2010, % of children in OHP who received timely periodic EPSDT examinations, and all other appropriate preventive health assessments and examinations, including examinations and care targeted for adolescents and teen parents.	CJAMS	TBD	TBD	TBD
82	**Beginning December 1, 2009, 90 % of children entering OHP received timely periodic EPSDT examinations and all other appropriate preventive health assessments and examinations, including examinations and care targeted for adolescents and teen parents.**	**CJAMS**	**TBD**	**76.9% (MATCH)**	**0%**
83	**Beginning July 2010, 90 % of children in OHP received timely periodic EPSDT examinations, and all other appropriate preventive health assessments and examinations, including examinations and care targeted for adolescents and teen parents.**	**CJAMS**	TBD	TBD	TBD
84	Beginning July 1, 2009, % of new entrants under age three who were referred for a Part C Assessment within ten days of placement.	CJAMS	TBD	TBD	0%

	Measure	Source	65th	66th	67th
85a	% of children who received timely all Needed Health Care Services.	CJAMS	TBD	TBD	10.79%
85b	% of children who received timely all Needed Health Care Services.	QSR	TBD	TBD	68%
86	% of cases in which the identification of a developmental delay was followed by a prompt referral for special education or early intervention services.	QSR	TBD	TBD	85%
87	% of cases in which the case worker monitored the child's health status once monthly.	QSR	TBD	TBD	43%
88a	**90 % of children received timely all Needed Health Care Services.**	**CJAMS**	**TBD**	**TBD**	**10.79%**
88b	**90 % of children received timely all Needed Health Care Services.**	**QSR**	**TBD**	**TBD**	**68%**
89	% of all new entrants who had a complete health passport and MA number that were distributed to caregivers promptly.	CJAMS	TBD	96.93% (MATCH)	0%
90	% of children who had a health passport that was updated and distributed to the caregivers at least annually.	CJAMS	TBD	TBD	0.99%
91	% of children for whom BCDSS requested an MA card promptly when a replacement was needed.	CJAMS	TBD	96.9% (MATCH)	87.50%
92	% of all children for whom BCDSS delivered an MA card promptly.	CJAMS	TBD	100% (MATCH)	0%
93	**90 % of all new entrants had a complete health passport that was distributed to the children's caregivers promptly.**	**CJAMS**	**TBD**	**96.93% (MATCH)**	**0%**
94	**90 % of children had a health passport that was updated and distributed to the children's caregivers at least annually.**	**CJAMS**	**TBD**	**TBD**	**0.99%**
95	% of new entrants who were enrolled in and begin to attend school within five days of placement.	CJAMS	TBD	TBD	33.95%
96	% of children who changed placement who were enrolled in school within five days of a placement change	CJAMS	TBD	TBD	TBD
97	% of children eligible for special education who received special education services without interruption when they transferred schools.	QSR	TBD	TBD	100%
98	% of children ages three to five who were enrolled in a pre-school program.	CJAMS	TBD	TBD	18.50%
99	**90 % of children were enrolled in and began to attend school within five days of placement in OHP or change in placement.**	**CJAMS**	**TBD**	**TBD**	**TBD**
100	% of children who had an attendance rate of 85 % or higher in the Baltimore City Public School System.	Innovations (QA)	TBD	33%	37.80%

	Measure	Source	65th	66th	67th
101	% of children who had an educational plan.	QSR	TBD	TBD	45%
102	% of children for whom BCDSS met its obligations as set forth in the child's educational plan.	QSR	TBD	TBD	86%
103	% of children whose educational progress was monitored monthly.	QSR	TBD	TBD	40%
104	**90 % of children had an educational plan.**	**QSR**	**TBD**	**TBD**	**45%**
105	**For 90 % of children, BCDSS had met its obligations as set forth in the child's educational plan.**	**QSR**	**TBD**	**TBD**	**86%**
106	**For 90 % of children, BCDSS had monitored the child's educational progress monthly.**	**QSR**	**TBD**	**TBD**	**40%**
107	% of children for whom any indication of developmental delay or disability was followed by a prompt referral for special education or early intervention services.	QSR	TBD	TBD	85%
108	% of children in special education or early intervention for whom the provider or case worker attended the IEP meeting.	QSR	TBD	TBD	77%
109	% of children who were eligible for special education or early intervention services for whom BCDSS made reasonable efforts to secure services.	QSR	TBD	TBD	85%
110	**BCDSS made a prompt referral for special education or early intervention services for 90 % of children for whom there was an indication of developmental delay or disability.**	**QSR**	**TBD**	**TBD**	**85%**
111	**BCDSS made reasonable efforts to secure services for 90 % of children who were eligible for special education or early intervention services.**	**QSR**	**TBD**	**TBD**	**85%**
112	% of case-carrying (full-time and with full-caseloads) staff who were at or below the standard for caseload ratios.	CJAMS	TBD	TBD	TBD
113	% of case-carrying teams who were at or below the standard for ratio of supervisor: worker.	CJAMS	TBD	86%	TBD
114	% of children entering OHP beginning July 1, 2009 whose siblings had the same caseworker.	CJAMS	TBD	TBD	72.10%
115	**90 % of case-carrying staff was at or below the standard for caseload ratios.**	**CJAMS**	**TBD**	**TBD**	**TBD**
116	**90 % of case-carrying teams were at or below the standard for ratio of supervisor: worker.**	**CJAMS**	**TBD**	**86%**	**TBD**
117	% of caseworkers who qualified for the title under Maryland State Law.	Innovations (QA)	100%	100%	100%
118	% of case-carrying workers who passed their competency exams prior to being assigned a case.	Innovations (QA)	100%	100%	100%

	Measure	Source	65th	66th	67th
119	% of caseworkers and supervisors who had at least twenty hours of training annually.	Innovations (QA)	TBD	40.61%	48.57%
120	% of caseworkers who reported receiving adequate supervision and training.	Innovations (QA)	TBD	TBD	61.22%
121	**95 % of caseworkers met the qualifications for their position title under Maryland State Law.**	**Innovations (QA)**	**100%**	**100%**	**100%**
122	**90 % of caseworkers and supervisors had at least twenty hours of training annually.**	**Innovations (QA)**	**TBD**	**40.61%**	**48.57%**
123	% of cases transferred with required documentation within five working days.	Innovations (QA)	TBD	43.70%	88.55%
124	% of transferred cases in which a case conference was held within ten days of the transfer.	Innovations (QA)	TBD	28.80%	93.88%
125	**90 % of cases were transferred with required documentation within five working days.**	**Innovations (QA)**	**TBD**	**43.70%**	**88.55%**
126	**90 % of transferred cases had a case transfer conference within ten days of the transfer.**	**Innovations (QA)**	**TBD**	**28.80%**	**93.88%**

IV. DATA COLLECTION AND REPORTING

A. Measure Instructions

In 2019, the parties agreed that the measure instructions then in place were inadequate to meet the MCD requirements. No substantial headway was made on development of new measure instructions until January 2021, when Defendants produced a draft of proposed measure instructions for most of the measures. By June 2021, almost all of the measure instructions had been finalized.[2] A number of the measure instructions will need to be revised and re-reviewed with the parties for final approval in order to match the specifications for the CJAMS reports which

[2] The measure instructions for Internal Success Measures 95 and 96 and Exit Standard 99 were not finalized because the Defendants reported that they had no way to obtain the necessary school attendance data to meet the complete requirements of those measures. They set a goal of the end of 2021 to develop a resolution to that problem. So far as the IVA is aware, the problem remains unresolved.

required some adjustments and greater specifics. This process will need to take place before any reports are finalized.

B. The Role of MD THINK

Seven years ago, DHS began the development of MD THINK and the CJAMS application which have emerged as key components of meeting the Outcomes of the MCD. It is described on the DHS website as:

> an ambitious, state-of-the-art IT program designed to enhance customer services, streamline common data, and reduce IT operating costs for Maryland's state agencies. The creation of a multi-program, multi-departmental shared human services platform is a major undertaking that will require a significant degree of technical, legal, and policy coordination among the participating state agencies.

https://dhs.maryland.gov/mdthink/ (last visited September 12, 2022). The importance of MD THINK to the continued implantation of the MCD lies primarily in the role of its staff in (1) developing the reports to provide data for the majority of the MCD measures, and (2) the continued development and correction of defects in CJAMS, Maryland's child welfare database application. Over the past 15 months, which has been the period of time when the IVA has had continuous contact with MD THINK, there has been significant turnover of both leadership and staff, both of which have had impacts on MD THINK's ability to produce the accurate, reliable and valid reports critical to the success of the MCD.

C. Development of Accurate, Reliable and Valid Data Reports from CJAMS

More than a year after the completion of the measure instructions, Defendants remain a significant distance from the goal of having reports that are capable of extracting accurate, reliable and valid data from CJAMS. The progress has been so slow as to impede the Defendants' ability to input properly and to collect sufficiently accurate data for the 67th Report and 68th Report periods, postponing once again the ability to create a reasonably accurate, reliable, and valid report

until well into 2023. While 75% of the planned reports have passed initial screening sufficiently to be moved to the validation stage, there are no reports which can be considered finalized. During the year-and-one-half period that these reports have been under development, turnover of MD THINK staff and a failure to develop the necessary structure to document CJAMS application and report development contemporaneously, has resulted in the need to revise and restructure every report previously developed. Although MD THINK report developers (see comment below highlighted in yellow) have developed more familiarity with the system and facility with accessing the data needed for report development, other problems identified in the IVA's last Certification Report continue unsolved.

At Defendants' request, the IVA provided a detailed summary of the categories of ongoing concerns about the status of progress on the reports and recommendations as to improvements required in both the CJAMS application itself and in the activities and staffing needed to accomplish completion of accurate, valid, and reliable reports in a reasonable amount of time. (See Attachment 1, IVA Memo, 6/8/22). Defendant DHS' reply to the IVA's summary did not respond to most of the specific concerns and made no commitments to any increased efforts for timely completion of those reports. (See Attachment 2, Defendants' Response to IVA Memo, 7/15/22).

In contrast, Defendant BCDSS has responded to concerns raised by the IVA and invested significant resources to meet the need for accurate, reliable, and valid data. It has added contractual technical staff to the Innovations Unit to validate all of the CJAMS reports that have been put into production. These staff members provide MD THINK developers with detailed analyses of each report to ensure that the reports meet the requirements of the L.J. measure instructions and are drawing accurate data from CJAMS. As their familiarity with the report writing process, with CJAMS and with child welfare practice has increased, validation work on these reports has been

able to be shifted from the IVA to BCDSS staff. This staff also is charged with developing and maintaining other reports for BCDSS management purposes and reports to remind staff as to when required activities, such as case plans, are due. In addition, Innovations Unit staff have developed tip sheets to guide staff in proper documentation so that the reports will draw the necessary data. Innovations staff regularly check to ensure that staff are correctly entering critical data such as placements. Maintaining competitive salaries and sufficient numbers of these staff is critical to Defendants' ability to begin to produce accurate and reliable data.

However, the following challenges continue unabated:

1. CJAMS remains poorly documented; there is no comprehensive data dictionary. As a result, accessing fields that have not been used in prior reports has been time-consuming and much too dependent on the time and accessibility of a small number of MD THINK staff who are well versed in the "back end" of the CJAMS application where the tables reside.
2. The technical specifications for completed reports have not been well documented. Many of the reports have elements that should be the same. For example, the denominator for a number of the reports is the population of children who were in OHP during a specific L.J. reporting period. In order to ensure reliable results, the computer code for the denominator for all of those reports should be the same. However, due to the lack of documentation of the coding for each report in an organized and accessible way and that consistency has not been achieved. At this point, every report already produced must be reviewed to determine and document the common elements and ensure that they are applied in the same way in each relevant report.

3. SSA does not have enough data staff who are sufficiently familiar with the CJAMS application and with the L.J. requirements. As a result, the work has fallen overwhelmingly on one person who is also the head of SSA's data unit. With many other demands on her time, the progress of the report development slowed and most of the responsibility has fallen on the IVA.
4. Almost all of the reviewed reports have had errors in the initial coding as well as errors that do not appear to be attributable to the initial coding but rather continuing problems with the CJAMS table structures. For example, when Innovations staff moved from reviewing reports for January – June 2022 reporting period to those for the July – December 2022 reporting period, numerous reports simply would not work correctly.
5. The CJAMS application needs numerous defect corrections and enhancements so that staff can enter the needed data and reports can extract that data. This is true not just for the L.J. reports but also for federal and state reporting requirements and to respond to issues raised in audits of SSA and the local departments of social services. The IVA identified in early May nearly 100 such changes needed for L.J. reports. Only three to five changes are scheduled for work every two weeks, and the schedules for CJAMS application changes continue to be filled with non-L.J. report demands. At this rate, it is not an exaggeration to say that the needed application changes would not be completed for at least a year.
6. SSA does not appear to have a well-developed monitoring system for ensuring that conflicting application change requests are reconciled. There is no system that would allow SSA to know the impact of a particular application change on (1) other application issues and (2) existing or planned reports. This can easily result in multiple instances of unintended and unanticipated consequences from application changes. There also does not

appear to be a process in place that would immediately alert staff of application changes and provide them with training and instruction on the impacts of those changes.

7. More than three years since the state began implementation of CJAMS, reliable basic population-level reports were only begun to be developed within the past year after the IVA advised DHS that no report validation was going to occur until a basic OHP/foster care "milestone" report was created. That report – and a comparable report for Child Protective Services – were only substantially completed in the past few months. Needed milestone reports for foster/resource home providers and for family preservation are not yet completed, which means validation of related measures cannot be done.

In its July 15th response to the IVA's concerns and recommendations, DHS stated: "DHS believes that the allocated personnel have an effective and efficient process in place to continue making progress, and DHS and BCDSS leadership will continue to monitor the situation to make adjustments where necessary and appropriate." (See Attachment 2). The above-enumerated challenges call into question the existence of an effective and efficient process and require immediate adjustments.

D. Other Ongoing Data Validity, Reliability and Accuracy Concerns

Staff continue to be challenged by using CJAMS to do such critical tasks as creating case plans and service plans, timely and sufficiently documenting conversations and meetings, and uploading important documents. These problems must be resolved if Defendants are to report accurate, valid, and reliable data that will permit the IVA to certify compliance with the L.J. measures. Given current caseload levels – 88% of the caseworkers with active caseloads in August 2022 had caseloads over the required 12 cases – it is an ongoing challenge for workers to fully

document CJAMS. This problem will only be resolved by the hiring of additional staff or other supports, to meet the critical responsibility of documentation in CJAMS. (See Caseloads, Section V.D., below.)

E. Defendants' Strategies for Improvement

Even without a full set of accurate, valid, and reliable data being available at the time of the 67th Report, Defendants acknowledge that many of the measures are not compliant with the MCD. Plaintiffs' counsel has urged the development of compliance plans, and the IVA agrees that there is enough information available to the Defendants that they can develop plans to increase compliance rates. The Defendants have responded to the request for compliance plans with "Strategies for Improvement." These strategies are categorized under: Workforce; Preservation, Permanency and OHP; and Education. These categories align with four of the five substantive sections in Part Two of the MCD ("Substantive Requirements and Exit Standards"). The Defendants do not offer strategies for improvement for the measures in the Health Care section of the MCD with the exception of Measures 86 and 87 which are QSR measures. Separately, in the QSR section of the report, three strategies for improvement were included, apparently for all of the 30 ISM and Exit Standards measured through QSR. The report does not indicate how these two sets of strategies would be integrated.

While some of the strategies presented address an individual measure, for other measures, the Defendants have presented the strategies for improvement broadly, often grouping multiple measures with the same strategies. The IVA agrees that some measures will benefit from similar action to move them towards required compliance levels but linking a single strategy with too many disparate measures diminishes the likelihood of a significant impact on any one measure.

For example, the Defendants present a set of strategies for improvement for a large group of measures in the Permanency and Preservation, and Out of Home Placement section of the MCD. The strategy presented focuses on training workers to develop Case Plans (Defendants' 67th Report, pp. 29-31) . This strategy is intended to impact multiple measures (7, 8, 15, 16, 19, 21, 22, 24, 25, 29, 40) addressing a wide range of topics – service plans, case plans, transition plans, and participation of relatives in case planning meetings. The strategy is not specific to individual measures and speaks broadly to training staff on the process of creating a case plan. Additionally, this broad response to multiple measures lacks specific goals or timelines for compliance and relies on improved documentation to lead to compliance. However, it is unlikely that documentation alone will bring these measures into compliance given that many of these measures have a quality of casework component to them that goes beyond documentation and process. Case plans are an essential part of practice but only a part of high-quality case work. The skills of workers in areas such as engagement, teaming and assessment are just as, if not more, essential. Without these skills, even a quality case plan will be of limited value in moving children toward permanency.

In other cases, the Defendants have presented strategies for improvement that did include a timeline and specific tasks, but because report development has progressed so slowly or is problematic, it remains unknown if the strategies have led to improvement. This is the case with measures related to Family Teaming Meetings (Exit Standards and ISMs 9, 17, 18, 19, 20, 69, 70, 78). The Defendants presented actions and targeted completion dates. The implementation of the new Family Teaming practice model was intended to be completed in July 2021. However, data reports have yet to be finalized. Of these measures, five are reported as "TBD" because report development has not been completed. Without this information BCDSS cannot know if their

efforts have resulted in improvement or if they must seek different strategies. This serves to highlight the importance of increasing the pace of data report production.

As mentioned above, no strategies for improvement are presented for the majority of the Health Care measures – Exit Standards 75, 79, 82,83, 88a, 93, 94 and Internal Success Measures 73, 74, 76, 77, 78, 80, 81, 84, 85, 89, 90, 92. These 20 measures represent nearly the entire substantive Health Care section of the MCD. The contract between Defendants and MATCH for health management services requires that MATCH submit corrective actions plans for areas that need improvement. Because non-compliance with the health measures may also be due to situations outside of MATCH's scope of work or control, the Defendants and MATCH will need to work together to determine the reasons for non-compliance and develop strategies to meet the required thresholds for compliance in the MCD. These corrective action plans should be included in Defendants' six-months compliance reports for the health measures that are not compliant with the MCD. (Further discussion of the Health Care measures is included in Section VI. C. of this report.)

The IVA hopes that in the 68th report Defendants will provide more detailed plans for improvement that include specific actions, timelines, and compliance percentage goals (i.e., "increase compliance by 10 percentage periods in next reporting period").

V. CHILD WELFARE POLICY AND PRACTICE ISSUES

A. Kinship Care

> *"I recently asked my brother what would have helped him most during his years in the child-welfare system. His one-word answer: family."* – Sixto Cancel, former foster youth and founder of Think of Us

See Attachment 3, Sixto Cancel (June 22, 2022). My Brother's Troubling Story Shows Why Philanthropy Should Avoid Investing in Institutional Care. *Journal of Philanthropy.* https://www.philanthropy.com/author/sixto-cancel. (See also Attachment 4, Sixto Cancel (September 16, 2021). I Will Never Forget That I Could Have Lived with People Who Loved Me. *New York Times*).

The IVA's Response to Defendants' 66th Report addressed in detail the importance of kinship placements, and Defendants' need to increase the percentage of children and youth in kinship care. (See IVA Response to 66th Report, pp. 11-14.) By prioritizing kinship care many children can avoid being removed from their families and communities, avoid separation from siblings, and avoid the needless trauma of moving to a stranger's home, or, worse, group care. The benefits of kinship care are well-known. Children in kinship care achieve permanency more quickly than children in non-relative care. When compared to children in non-relative foster care, children in kinship care have been found to experience fewer behavioral and mental health challenges, lower rates of re-abuse, and less placement disruption. (See Attachment 5, Casey Family Programs (July 2020). *How Can We Prioritize Kin*. https://caseyfamilypro-wpengine.netdna-ssl.com/media/SF_ Adapting-Home-Studies-for-Kin_fnl.pdf.)

Kin placements have another layer of impact on the foster care system because they divert children from other placements such as regular foster homes and therapeutic foster homes. Thus kin placement results in increased availability of placement options for other children who do not have kin able to care for them. For example, a sibling group may be placed in a therapeutic foster care home because one of the siblings requires a higher level of care than a regular DSS foster home. Entering foster care is a traumatic experience, but the practice of keeping siblings together can mitigate some of the trauma and help children adjust to new homes and caregivers. However, the impact of this placement is that several therapeutic beds are not available to other children who need a therapeutic placement. Instead, the focus should be on locating kin providers who can care for a sibling group with intensive, individualized services to meet any special needs of the children.

At L.J. Problem Solving Forum held on June 23, 2022, BCDSS Director Stocksdale informed the forum members that BCDSS recently held a leadership retreat where they had set a goal to place 50% of all children in foster care with kin. This would be a significant improvement from the current 35% kin placement rate. (Attachment 6, BCDSS Child Welfare Trends, July 2022). For children not placed with kin, the search for relatives should continue beyond initial removal and placement; however, this does not appear to happen in many cases as indicated by QSR data. For those children and youth in the QSR sample who were not living with a relative and for whom relatives had not been located, there was no evidence of a search for a maternal relative in the past 12 months for 25% of the cases. As to paternal relatives, there was no evidence of a search in the past 12 months for 77% of the cases reviewed. (Defendants' 67th Report, pp. 11-12).

While kin should always be sought as placement resources, placement with kin alone may not be enough to stabilize a child following a traumatic removal from their home and family and

the circumstances that resulted in that removal. Encouraging and maintaining kin placements in some cases will require significant effort. Foster children need individualized, customized services to ensure that their emotional, physical, educational, and cultural needs are met. Kin providers often need support in many ways as well, including financial assistance, childcare, housing and therapeutic supports.

One way to support kin is through the licensing process. Unfortunately, according to DHS' Foster Care Milestone Report, during the 67th reporting period, 75% of kin placements were unlicensed; that percentage was 74% as of August, 2022. Without a license, kin caregivers are only eligible to receive monthly Temporary Cash Assistance (TCA) payments for the youth in their care, and only if they are relatives within a certain degree of consanguinity. In addition, the monthly amount for one child - $328 – is less than half the amount received for a licensed foster home, which is a minimum of $887 per month and significantly more if the child is considered as needing an "intermediate" level of care ($1,008) due to physical or mental health issues. In addition to receiving less monthly financial support, unlicensed kin providers are not assigned a resource home (Resources and Support) worker like other BCDSS licensed foster homes who receive support from both a Resources and Support worker and an OHP caseworker. Kin providers need assistance to overcome barriers to licensing, ensuring that they receive the financial and case work support they need.

BCDSS has begun making progress on the creation of a Kinship Resource Center. This project is not being developed through an RFP as outlined in the related Additional Commitment but rather through resources and staff at BCDSS. The creation of a "brick and mortar" Kinship Resource Center was delayed due to COVID restrictions, but a webpage on kinship care was added to their DHR website while planning for the opening of a brick-and-mortar center continued.

Recent updates indicate that the brick-and-mortar location of this Kinship Resource Center will open this fall. (See Appendix 1, pp. 11-12 for further discussion.)

The IVA asks that Defendants provide more details as to how they will increase the rate of kin placements, how they will meet the needs of children and youth in kin care, and how they will support the kin who step in to provide care for a family member.

B. Placement Needs

It cannot be emphasized enough: the lack of appropriate placements and treatments for children and youth with significant mental health needs, especially when those problems are complicated by developmental disabilities, is particularly pressing. Some of these children have suffered multiple traumas prior to entering foster care and been further traumatized by instability in the foster care system, having been ejected or run away from multiple placements. Some have spent not just hours but days in hospital emergency rooms waiting for beds in psychiatric units, or placements in group homes, diagnostic centers, or residential treatment centers. Some children are forced to remain in psychiatric units long past the time they are ready for discharge due to a lack of available and appropriate placements. Some of these children have spent multiple nights in BCDSS' office buildings in violation of the MCD, while others have been placed in hotels with supervision by one-to-one service providers, an expensive and questionable practice. Two examples of youth who have experienced multiple-night overstays in a BCDSS office are shared below.

> *J. B., a 15-year-old male, diagnosed with ADHD-combined type, Major Depressive Disorder and Anxiety Disorder, spent 15 nights in a DSS office building during December 2021 followed by a month-long stay, including Christmas, in a hotel with a one-to-one*

provider from December 23rd to January 24th. Long before the nights spent in an office building and a hotel, J.B. was known to the Defendants and had experienced multiple inpatient psychiatric stays and significant placement instability including multiple therapeutic foster homes, therapeutic group homes and a residential treatment center since he entered care in 2018. J.B. has a significant trauma history including the death of his father and grandmother, incarceration of his mother and neglect.

N.C., a 13-year-old girl, with an IQ of 73, and diagnosed with PTSD and Disruptive Mood Dysregulation Disorder, spent nine nights in a DSS office building between September 22nd and December 6th. N.C. has a history of multiple inpatient psychiatric stays at Sheppard Pratt and significant placement instability, including placements in regular DSS foster homes, multiple therapeutic foster care programs, a therapeutic group home and kin placements.

Unfortunately, these are just two examples, and other children have faced similar overstays continuing to date. (See Attachment 7, Miller and Bowie (September 15, 2022). Maryland Foster Children Are Being Kept Overnight in Hotels and Downtown Office Buildings, *The Baltimore Banner).* These overstays are a clear violation of the MCD.

Appropriate and high-quality placements must be available to all children and youth who are in foster care. The least restrictive family settings should always be sought first and should include individualized, intensive, wrap-around services to ensure that children and youth can remain in the community and in a family setting either with kin or foster parents. However, some children and youth with the greatest needs or additional risk factors may need a higher level of care for a period of time during their stay in foster care in order to stabilize them until their needs can be met in a less restrictive community setting. Therefore, a range of placements and services that can meet the complex needs of foster children must be available to BCDSS. This includes therapeutic foster care, therapeutic group homes and residential treatment centers. While BCDSS

is responsible for recruiting foster families and identifying kin providers, all other types of placements are the responsibility of DHS and their state partners at MDH through state contracts and licensing. While there has been a very limited expansion of "high end" resources since 2020, these are all very restrictive congregate care placements, and they must be shared statewide. DHS has failed to craft and implement appropriate solutions to long-standing placement problems such as children staying in hospital emergency rooms long after they are ready for discharge.

The ongoing problem of placement challenges is evidenced by the weekly Overstay List and the Children in the Building (overstay) reports. Therapeutic foster care agencies, group homes and residential treatment centers are refusing to accept placements of children and youth for a multitude of reasons, including a lack of beds, lack of foster families, an inability to meet the needs of the child referred to them, and lack of resources to monitor placements.

Under the MCD, Defendants are required to conduct biennially "an assessment of the range of placements and placement supports required to meet the needs of children in OHP. . ." (MCD, Part Two, Section II. Out of Home Placement, E. Additional Commitments, pp. 26-27). In response to the IVA's and Plaintiffs' concerns about the inadequacy of the Defendants' previous biennial needs assessment, the Defendants contracted with the Institute for Innovation and Research at the University of Maryland School of Social Work to complete the assessment. The completion of this assessment was delayed by more than a year, until June 2022, by issues related at least in part to CJAMS access. (See Attachment 8, Institute for Innovation and Research, Baltimore City Placement Review (June 2022)).

Although the IVA has determined that this report does not meet the MCD requirements as outlined in the Additional Commitment (see discussion in Appendix 1, pp. 8-9), this report

provides some valuable information and recommendations. While there was little discussion regarding specific placement needs, the assessors did acknowledge that the presence of an overstay/waitlist is problematic in that it suggests that those children included on the list are not being served in the most appropriate setting to meet their needs. The report lays out short (within the next year), medium (2-3 years) and long (3-5 years) term recommendations. Many of these recommendations center around changes to practice and policy.

Although helpful in confirming many of the issues that children with higher level needs in foster care face, these recommendations contain little new information for Defendants. The needs of children and their families in the child welfare system are well-known. What has been missing is a comprehensive plan, particularly at the state level, to implement the needed services and placements. Defendants should create specific and detailed action plans to implement these recommendations and address longstanding needs. In the meantime, children continue to experience unmet needs, placement instability and further trauma in the child welfare system.

C. Mental Health – Ongoing Problems and Potential New Resources

High quality, culturally-responsive mental health care is essential to the well-being of children and youth in foster care. The failure to provide this care exacerbates the placement problems discussed above. Furthermore, there is a lack of data around the mental health needs of children in BCDSS, a frustration frequently voiced by the IVA and Plaintiff's counsel. Information such as the percentage of child and youth in need of mental health services, percentage of children and youth receiving mental health services, common diagnoses, frequently prescribed medications, and treatment outcomes, is essential to ensuring that services are available to meet

the needs of children and their families/caregivers. It is disappointing that even with MATCH case management services these data points are not available for children in BCDSS's care.

The MCD requires the Defendants to address mental health care for children and youth in foster care.

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

(MCD, p. 33.) The Defendants have not yet complied with this requirement. (Further discussion of this Additional Commitment is included in Appendix 1, pp. 18-20.)

Defendants updated their Behavioral Health Plan in June 2021. However, the IVA deemed this plan to be insufficient to meet the requirements of the MCD. There remain significant gaps in the scope of the plan and services, particularly in meeting the ongoing mental health needs of children beyond the new entrant period and the provision of crisis intervention services. Defendant DHS failed over the past decade to accomplish the promised rate reform, which would separate the payment of board costs to private foster care agencies from the payment for services such as mental health care. Recently, DHS shared that rate reform will be delayed until at least 2026. This delay continues to have a negative impact on meeting the goals of this Additional Commitment and, more importantly, the needs of the children in OHP.

Lack of quality mental health care services and continuity of services for children, particularly for those who experience placement instability, was again discussed at an L.J. Problem-Solving Forum held on October 14, 2021. At the forum, the Defendants proposed the creation of a program to provide direct mental health services to foster children and youth. Following the forum, Director Stocksdale convened a small group including the IVA, Plaintiffs' counsel, DHS/DSS staff, and Behavioral Health Systems Baltimore (BHSB)[3] to discuss this proposed program. This group met regularly over several months in the first part of 2022. Plaintiffs' counsel and IVA were given the opportunity to offer input into program elements and requirements. On May 11, 2022, a Request for Proposals (RFP) was released by BHSB, entitled "Mental Health Services for Children in Out-of-Home Care." (See Attachment 9). The budget for this project is $1.9 million with an expected service term of October 1, 2022 – June 30, 2023, with options to renew annually pending availability of funding and performance.

Four providers were selected after a review of submitted proposals and announced at a meeting with Plaintiffs' counsel and the IVA on August 24, 2022. Referrals to the providers will begin on October 1, 2022. All selected providers will need to undergo training in the newly developed "Baltimore City Foster Care Clinician Curriculum." This curriculum is being developed by Dr. Kyla Liggett-Creel of the University of Maryland School of Social Work. This curriculum will be grounded in youth and family voice, implementation science, and will guide and support clinicians to work with children, youth and families involved in the child welfare system. The curriculum will prepare clinicians to deliver effective clinical services to address the

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

immediate and long-term effects of child maltreatment and involvement with the child welfare system. (RFP, Attachment 8, p. 5). However, the IVA recently learned that training on this curriculum will not begin until January 2023, three months after the start date of the new program. Much is still to be determined about the implementation, administration, and assessment of the new program.

D. Caseloads

It cannot go unmentioned: caseloads at BCDSS remain too high, and there are no short- or even medium-term solutions on the horizon. For July – December 2021, only 23.8% of OHP caseworkers met the caseload requirements of 12 children per caseworker. One-half of all OHP caseworkers had caseloads between 16 – 25 children. (L.J. Measure 112/115 Report, available upon request). By August, 2022, those ratios had gotten worse: only 12% of OHP caseworkers met the caseload requirements of 12 or less children per caseworker. 57% of all OHP caseworkers had caseloads between 16 – 25 children. A review of recent employee hiring and termination data makes clear why the numbers are getting worse: between January 1 – June 30, 2022, 23 caseworkers (for all of child welfare) were hired; 38 caseworkers left. (See also Attachment 10, *Human Services Staffing Shortage is at an 'An All-Time High,'* (February 3, 2022) Maryland Matters.org).

The lack of availability of adequate direct supervisors has also gotten worse. For the January – June 2021 reporting period, the last one for which supervisor to caseworker ratios were reported, 86% of supervisors met the required ratio of one supervisor to five caseworkers. By August, 2022, that ratio for OHP was down to approximately 71%. Employee hiring and

termination data shows that between January and June 2022, only 1 child welfare direct supervisor was hired while 13 supervisors left.

These high caseloads and supervisor to caseworker ratios impact the children in foster care and their families as well as the caseworkers. Not only are these increased caseloads a violation of the MCD, they make it much more difficult to resolve any of these issues discussed in this report.

Although the MCD Workforce Exit Standards focus on caseloads and supervision ratios for OHP and Resources and Support, sufficient staffing of the Family Preservation program is no less critical to meet the MCD outcomes of preservation of families and timely permanency as well as the overall mission of the Defendants to protect the safety of children. Unfortunately, because immediate staffing pressures have focused hiring on the CPS and OHP units, staffing of the Family Preservation unit has fallen to approximately 21 caseworkers and 3 direct supervisors as of August 2022; while at least 8 Family Preservation caseworkers and 2 Family Preservation supervisors have left in 2022, there have been no staff added to that Unit in 2022.

The IVA acknowledges that hiring and retaining staff is a challenge beyond just Baltimore City and beyond just the social work profession. Because these complex problems will not be resolved all at once, Defendants need to urgently consider other personnel changes and supports, e.g., requesting additional pay for caseworkers under certain conditions and additional transportation and family support workers, that may help overloaded caseworkers better support children and families. The Defendants are well aware of the problem and should be pursuing ways to address it before the problem worsens further.

VI. IVA CERTIFICATION DISCUSSION

Part Two of the Modified Consent Decree contains five sub-sections:

I. Preservation and Planning
II. Out of Home Placement
III. Health Care
IV. Education
V. Workforce

Each of these five sub-sections contains Outcomes with Definitions, Internal Success Measures (ISMs), Exit Standards and Additional Commitments. The IVA is responsible for review of Defendants' assertions of compliance and may certify compliance only after determining that the data reported and the measures and methods used to report that data are accurate, valid and reliable. (MCD, p. 4).

A. Introduction

For the 67th Report, Defendants report on 98, or 78%, of the 126 measures. Unfortunately, this is far fewer measures than the IVA and parties had hoped to have reported for this report. Even more concerning is that there still will not be accurate, reliable, and valid data available for many measures in the 68th reporting period. At the current pace of work, it will be another two more six-months reporting periods before accurate, reliable, and valid data will be available for all of the measures.

B. Data Discussion

The IVA continues to be concerned about reporting of data that is not accurate, reliable, and valid to both this court and for public posting. Concerns include:

1. Reporting of data that is known to be inaccurate due to lack of or incomplete training on documentation. Given the large number of measures that indicate this as a reason for inaccurate data, there will need to be extensive training completed before accurate data can be reported.
2. The compliance levels for many of the measures are alarmingly low. Even if cases are properly documented as to result in accurate data, will these levels rise considerably in the next reporting period or will these levels remain low due to reasons beyond documentation?
3. Several of these measures have been TBD for multiple reporting periods.
4. Other measures are simply inexplicably low as the data is not reported from CJAMS and is not due to a report development issue. These measures include the requirement to notify kinship care providers of training opportunities (Measure 46), annual training requirements for supervisors and caseworkers (Measures 119/122), and notification to child's attorney and Plaintiffs' counsel of maltreatment reports and dispositions (Measure 66). None of these measures are reported from CJAMS and there is no explanation for the lack of compliance.

C. Certification Discussion

"Certification" of individual measures involves a combination of (1) determining if the measure instruction for preparing and extracting the reported data meets the requirements of the MCD, (2) validation of the way the reported data was obtained and the reported data itself to determine if what is reported as the level of compliance is accurate, reliable and valid; and (3) for Exit Standards only, determination if the validated compliance level meets the MCD requirements.

1. Preservation and Permanency Planning

The Preservation and Permanency Planning section of the MCD includes five Outcomes containing a total of 7 Exit Standards and 22 Internal Success Measures. Defendants do not claim compliance with any of the seven Exit Standards in this section. Ten measures are reported as "TBD": Measures 3, 20 (Exit Standards) and Measures 1, 6, 9, 12, 18, 26 (ISMs).

The Defendants acknowledge in their report that much of this data is inaccurate due problems with reports that have been developed, lack of proper documentation, and lack of report validation. The IVA hopes to see more accurate data and more measures reported in the next reporting period for this substantive section of the MCD. Some of this data should come from QSR case review. During this reporting period and into 2022, the QSR Program Manager has worked closely with her staff, the Family Preservation Program Manager and the IVA staff to develop, train on and implement a QSR process for Family Preservation. This new QSR process is designed to assess the Family Preservation practice and make recommendations for improvement, but it also will provide the data necessary to report on the first MCD outcome, to provide services to prevent out-of-home placement, if possible, measured through Exit Standards 3 and 4.

A first group of 30 Family Preservation QSR reviews was done during the 68th reporting period, and the IVA staff were able to participate in a couple of the Inter-rater Reliability sessions and provide feedback. Currently, the IVA staff is working with the two Program Managers to update the Family Preservation protocol and case review tool in preparation for another round of 30 cases to be reviewed in October – December 2022. At this time, given staffing limitations, the

IVA has agreed that during each reporting period, it will be sufficient for reporting purposes for Defendants to do QSR reviews for 30 OHP cases and 30 Family Preservation cases.

2. Out-of-Home Placement

The OHP section of the MCD includes 12 Outcomes containing a total of 14 Exit Standards and 29 Internal Success Measures. Ten measures are reported as "TBD": Measures 39, 60, 70 (Exit Standards) and Measures 32, 37, 54, 56, 57, 59, 69 (ISMs). Defendants claim compliance and request certification of one Exit Standard, Measure 52. The certification decision for Measure 52 and its related Internal Success Measures is discussed below. A brief discussion of two measures that Defendants have not sought certification for – ISMs 38 and 67 – is included because of the importance of those requirements to placement issues.

Internal Success Measure 38: *Number of emergency foster homes on retainer and the number of beds available in each home.*

Data reported: 0 beds

IVA Response:

The measure instruction for Internal Success Measures 38 (Attachment 11, p.1) accurately reflect the requirements of the MCD. The IVA is unable to determine whether or not the data reported is accurate.

The Additional Commitment at Part Two, Section E3 (MCD, p. 27) of the MCD directly relates to this measure. While the reporting of this numerical data may be accurate, the Defendants do not provide adequate explanation for their decision to not pay a retainer to emergency foster

homes as required by the MCD. The Defendants state in the Additional Commitment section of their report,

> BCDSS has identified and approved homes that accept emergency placements, a category of home approval signifying a caregiver's willingness to be an emergency resource. In CJAMS the resource family is given a "placement structure" of "emergency foster home" which also enables eligibility for a higher rate when children are newly placed in foster care.

(Defendants' 67th Report, p. 59). The Defendants do not address the lack of retainer paid to these families nor do they report if any of the families have received the higher rate for which they may be eligible.

Continued hospital overstays and use of office buildings and hotels as unlicensed placements, as well as frequent placement changes for too many children, make clear that placements continue to be difficult to identify for children in crisis and those with high intensity behavioral and intellectual development needs. The IVA recognizes that placing these youth in emergency foster homes may not be considered safe for these youth or the providers. Rather than continuing to not address the lack of retainers, if the Defendants believe that this agreed upon provision of the MCD is no longer necessary, they should seek modification of the Additional Commitment. This is clearly stated in the language of the MCD: "*S*hould BCDSS determine that this provision is not necessary to achieve the outcomes of this Consent Decree, BCDSS will propose a modification to this Consent Decree about which the parties will negotiate in good faith." (MCD, Part Two, Section II, E. 3., p. 27)

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

Data reported: 18 specialists

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

Data reported:

Education: 5

Employment: 1

Housing: 1

Housing and Employment: 4

Independent Living Coordinator: 1

Ready by 21/SOAR/SSI: 2

Developmental Disabilities: 1

Substance Abuse Disorder: 2 Mosaic, job description included,

Mental Health Navigator: 1

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

Data reported: Posted MS 22 (position description)

Note: The IVA has granted an exemption from submitting the MS-100 documentation since the document listed in the MCD does not show what it was thought to show. Defendants have agreed to submit an MS-22 or resume for each position instead.

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

Data reported: *The agency met this measure based on information being shared in publication "Friday Focus." The publication is shared with all child welfare staff on the third Friday of over month during the reporting period and the advertised list of special support teams were supported and identified in Measures 49-51.*

IVA Response:

The measure instructions for ISMs 49-51 (Attachment 11, pp. 3, 6, and 8) and Exit Standard 52 (Attachment 11, p. 11) match the requirements of the MCD. However, the IVA is unable to certify Internal Success Measures 49, 50 and 51, and this Exit Standard 52 for the following reasons:

D. Defendants provided a spreadsheet with a list of 18 specialists with links to the required documentation. However, the required documentation was not provided for two of these 18 specialists. Additionally, dates of employment are missing for four of the listed specialists. Also, the spreadsheet states that three of the specialists are no longer in their positions but does not indicate as of when.

E. The memo provided by the Office of Human Resources intended to verify the employment and assignment of staff with the responsibility for providing specialized technical assistance to BCDSS Foster Care workers covers the wrong reporting period.

F. The Defendants provided one Friday Focus email sent out to staff in November 2021 listing some of the experts and providing a link to the full list. The measure instructions for this Exit Standard and related Internal Success Measures requires monthly notification.

G. The specialists' names on the spreadsheet provided to the IVA do not match the list of specialists on the "Ask the Experts" flier. There is overlap but not all are included on the flier, or a specialist is listed on the flier but not included on the specialist list submitted to the IVA. Additionally, for some of the specialists, the flier provides contact information for their supervisor not directly to the specialist. According to the Measure Instructions, the specialists need to be "known to and easily accessible by staff by telephone and email."

H. Lastly, it is unclear from the reported data whether any of the specialists provide badly needed technical assistance to caseworkers to help families and caregivers, not just children in OHP. For example, all of the housing and employment specialists are housed within the Ready by 21 units and their job descriptions do not address providing assistance to caseworkers working with biological parents or kins providers.

The IVA believes that these issues can be remedied and hopes to be able to certify this Exit Standard in future reporting periods. The IVA suggests a meeting with the Defendants to answer any questions about how compliance can be achieved.

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

Data Reported: Defendants report 41 children but note that there were 96 incidents.

IVA Response:

The measure instructions for ISM 67 (Attachment 11, p. 14) reflect the requirements of the MCD. However, the data reported by Defendants is not accurate, reliable, and valid.

Neither the MCD nor the measure instructions define an "incident." However, in reviewing Defendants' data, there were a number of occasions where a youth was reported as remaining more than 24 hours because the youth remained in the office building more than one night over a weekend or holiday. If these additional nights were reported as "incidents," there actually were 110 incidents of overnight stays in the office building.

In addition, Defendants do not include in the report any of the stays in motels/hotels by youth during the reporting period. Under the requirements of the MCD and its measure instruction, these also should be reported on a daily basis and included in the total count. The only information provided by Defendants about the hotel stays has been through the weekly "Overstay/Waiting List" distributed to L.J. plaintiffs' counsel and the IVA. There is no indication of whether or not children's CINA counsel has been notified of the hotel stays, as the MCD requires. From the Overstay/Waiting List report, at least three youth spent multiple nights in hotels at the end of December 2022 for at least 34 additional incidents of overstays to be reported as part of Measure 67.

Finally, although the MCD does not specify, Defendants have traditionally only reported overnight and weekend stays of four hours or longer in offices. To understand the true scale of the problem, it is important to know that in the vast majority of the office overstays during and since this reporting period, the children and youth were never placed in a new placement during the overnight or weekend hours. Instead, Defendants report that they "left before placement" at 8:00 a.m., meaning that when the extended hours office closed, they were taken to a different office building where they would spend more hours waiting for a placement. This occurred in approximately 80 of the 96 "incidents" of extended hours overstays during the reporting period.

3. Health Care

The Health Care section of the MCD includes five Outcomes containing seven Exit Standards and 15 Internal Success Measures. Defendants do not claim compliance with any of those Exit Standards. Two measures are reported as "TBD": Measures 81 (Exit Standard) and Measure 83 (ISM).

As noted by Defendants in their report, many of the measures in the Health Care section of the MCD, as reported out of CJAMS, are inaccurate. Significant discrepancies exist between the CJAMS data and MATCH's internal data. This appears to be due to MATCH not using CJAMS to document their work and relevant information. For other measures MATCH was not trained on how to document in CJAMS until late in 2021 and did not begin documenting in CJAMS until the beginning of 2022, the 68th reporting period.

The IVA and BCDSS Innovations Unit staff provided extensive and detailed training to MATCH staff on CJAMS usage and documentation for health-related measures in fall and early winter of 2021. If the required documentation is properly entered into CJAMS, the IVA hopes to see significant improvement in reported compliance levels.

While the IVA is unable to assess MATCH data for accuracy, validity, and reliability, it is important to note that for many of the health-related measures, MATCH's own data does not indicate compliance. Defendants have contracted with HCAM/MATCH to provide health care management services to children and youth in foster care. In 2020 a new contract was agreed to by HCAM/MATCH and the Defendants. This contract provides $5,000,000 per year (an increase of $2,000,000 per year) for health care management services and expands the scope of MATCH's work. BCDSS is responsible for monitoring this contract, and if compliance is not achieved,

BCDSS and MATCH need to work together to determine barriers to compliance and then submit plans to reach the required compliance levels. Compliance levels may be impacted in two ways: (1) lack of documentation or improper documentation by MATCH in CJAMS, and (2) lack of service provided by the agency. For example, if MATCH fails to properly enter into CJAMS the information needed to generate an accurate report regarding an EPSDT exam that was completed timely that would be a problem about documentation, not service provision. If a child was scheduled to attend an EPSDT exam but DSS failed to ensure that the child attended the appointment, this would be an example of non-compliance due to lack of service to the child. Thus, BCDSS and MATCH will need to work together to determine the reason for non-compliance and develop plans in response to the identified issues. These plans should be submitted for IVA and Plaintiff review with this report just as the Defendants have offered "strategies for improvement" related to the other substantive sections of the MCD.

With improved documentation, the IVA hopes to see increased compliance rates for the 68th reporting period, as well as how MATCH and BCDSS plan to increase compliance rates for measures that have not reached required compliance levels.

4. Education

The Education section of the MCD includes three outcomes containing six Exit Standards and 11 Internal Success Measures. Defendants do not claim compliance with any of the Exit Standards. Two measures are reported as "TBD": Measure 99 (Exit Standard) and Measure 96 (Internal Success Measure).

Like many other measures, accurate, reliable, and valid data is not available for several reasons including reports not being developed yet; reports not including all required elements of

the measure (i.e., school enrollment but not school attendance); lack of staff training on proper CJAMS documentation for the report period; and the need for developing data exchange agreements with school systems other than Baltimore City. Many of the measures in the Education section of the MCD rely on qualitative data gathered through the QSR program. Whether or not all of these measures are best assessed in this way needs to be re-evaluated in light of the enhanced education section in CJAMS, the requirements of the MCD and the structure of the education practice at BCDSS.

5. Workforce

The Workforce section of the MCD includes three outcomes containing six Exit Standards and nine Internal Success Measures. Defendants request or claim certification for two Exit Standards (Measures 121 and 126). Defendants also report data for three Internal Success Measures related to these Exit Standards (Measures 117, 118, 124). Four measures are reported as "TBD": Measures 115, 116 (Exit Standards) and Measures 112, 113 (Internal Success Measures). Certification requests are discussed below.

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

Data reported: 100%.

IVA Response:

The measure instruction for Measure 121 (Attachment 11, p. 24) accurately reflects the requirements of the MCD. It follows the language of Maryland Human Services Article §4–301 which requires, with one exception, that Defendants hire as caseworkers only human services

professionals who are licensed by the state in areas such as social work and psychology. Unlicensed individuals may be hired only if they meet the following criteria: (1) have a bachelor's degree in an "appropriate behavioral science"; (2) complete mandatory pre-service training; and (3) are supervised by licensed social workers. All new caseworkers must pass a competency test after the pre-service training and prior to being granted permanent employment and assigned cases.

For this Measure 121, the Defendants report a compliance level of 100% which meets the MCD requirements but also state, "this measure has reached full certification in three prior consecutive reports," and do not specifically request certification of this measure. Compliance with an individual Exit Standard over three consecutive reporting periods does not relieve Defendants of any reporting requirements. Part One, Section V. of the MCD reads:

> Defendants shall be in compliance with an *Outcome* of this Decree after Defendants have submitted periodic certified reports showing, with certification by the Independent Verification Agent, that Defendants have met the identified Exit Standards for that Outcome for three consecutive six-months reporting periods.

(MCD, p. 8) (emphasis added.) There are three Outcomes in the Workforce section of the MCD. The second Outcome for this section includes two Exit Standards (121 and 122). Defendants must be in compliance with <u>all</u> of the Exit Standards under the Outcome in order to stop reporting on the measure. Therefore, Exit Standard 122 must also be certified for three consecutive reporting periods before the Defendants can stop reporting on Outcome 2 and its related measures.[4]

[4] Measure 122 requires that 90% of caseworkers and supervisors had at least 20 hours of training annually. Defendants, for reasons which are puzzling to the IVA, are not in compliance with Measure 122, nor have they been since this IVA's appointment. This remains an area of concern for the IVA, and we hope Defendants will provide an explanation for, and plan to address, this lack of compliance in the next report.

The IVA has reviewed the data and determined that Measure 121 can be certified as compliant for this reporting period.

Measure 121 requires reporting on newly hired caseworkers during the reporting period in which they are first assigned a case. For all of those caseworkers, Defendants provided documentation of either an MSW in social work or related field or a bachelor's degree in an "appropriate behavioral science," and (2) proof of completion of the mandatory pre-service training and passage of the competency examination prior to assignment of a first case. For those new caseworkers without a social work license, they also provided documentation of their supervisors' social work license. The IVA finds that the procedures used by Defendants to collect this information and the data provided are reliable, valid and accurate. For that reason, the IVA certifies Defendants' compliance with Exit Standard 121 for the 67th Report period.

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

Data reported: 100%

IVA Response:

Internal Success Measure 117 has the identical requirements to Exit Standard 121. Therefore, the reasoning and findings made above for Exit Standard 121 are the same for Internal Success Measure 117. The measure instruction for ISM 117 (Attachment 11, p. 16) meets the requirements of the MCD, and the 100% compliance level reported for Measure 117 is certified as accurate, reliable and valid.

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

Data reported: 100%

IVA Response:

Internal Success Measure 118 is a subset of the requirements of Exit Standard 121. Its requirements are limited to ensuring the passage of competency exams prior to caseworkers being assigned their first cases. The measure instruction for ISM 118 (Attachment 11, p. 20) meets the requirements of the MCD. As stated above, Defendants have provided reasonable documentation of the dates of passage of the competency exam for all of the new caseworkers to whom cases were assigned during the 67th Report period. Therefore, the 100% compliance level reported for Measure 118 is certified as accurate, reliable and valid.

Exit Standard 126: *90 percent of transferred cases had a case transfer conference within ten days of the transfer.*

Data reported: 93.88%

IVA Response:

The measure instruction for Exit Standard 126 (Attachment 11, p. 31) meets the requirements of the MCD. However, the IVA is unable to certify this Exit Standard 126. The measure instruction requires that "[t]hose cases where transfer occurred during the 6-months reporting period will be reviewed for a meeting note entitled, 'case transfer conference' to determine whether the date of the case transfer conference was within 10 working days of the

transfer date and a case transfer document was uploaded into CJAMS within 5 working days of the case transfer conference." The only data provided is in the form of a spreadsheet with dates and calculations of days between specific dates with no indication as to the origin of the data contained in the spreadsheet. There is no evidence of the required data being in CJAMS.

In addition, there appear to be calculation errors in the data provided (and therefore, presumably, in the data reported): for example, for at least 23 cases transferred, there is a negative number of days between when the new assignment was requested and when the new case assignment was recorded in CJAMS as well as a negative number of days between when the case was assigned to a new caseworker and when the case conference was held. For example, in one case (CJAMS PID 200171812), the spreadsheet shows that the date of the request for transfer was 7/28/2021, but the reassignment in CJAMS was done on 7/15/2021, calculated as a difference of "-10" working days. The mathematical calculation might be correct, but the result does not make sense; why would there be a reassignment before there was a request? In the same case, the date of the transfer conference was 8/3/2021, but the days between the reassignment and the case transfer date is calculated as "-14" working days. That mathematical calculation is clearly wrong; because 8/3/2021 is after 7/15/2021, the difference between the two dates should not be a negative number.

Internal Success Measure 124: *Percent of transferred cases that had a case transfer conference within ten days of the transfer.*

Data reported: 93.88%

IVA Response:

Internal Success Measure 124 has the identical requirements to Exit Standard 126. Therefore, the reasoning and findings made above for Exit Standard 126 are the same for Internal Success Measure 124. The measure instruction for ISM 124 (Attachment 11, p. 28) meets the requirements of the MCD, but the 93.88% compliance level reported for Measure 124 is not certified as accurate, reliable and valid.

D. Additional Commitments

Four of the five sub-sections of the MCD also have Additional Commitments included. These 22 Additional Commitments are included in the MCD to cover issues of importance to the welfare of the children served by BCDSS which do not fit neatly into the ISMs/Exit Standards measures format. Defendants are required to report on compliance with the Additional Commitments in each six-months compliance report. As in previous reports, Defendants again report compliance or partial compliance with many of the Additional Commitments but still did not provide the documentation needed to support most claims of compliance. The IVA is able to certify Defendants full compliance with 5 of the 22 Additional Commitments. They are as follows:

Preservation and Permanency, E. 7. – Guardianship Subsidies

Out-of-Home Placement, E. 5. – Semi-Independent Living Arrangement Rate

Out-of-Home Placement, E. 8. – Funding for Child Care to Caregivers

Health Care, E. 1. – BCDSS Health Care Initiative

Health Care, E. 2. – BCDSS Health Care Advisory Council

Much of the rationale for the certification decisions remains the same for the 67th reporting period as it did for the 66th Report. Rather than repeating it in the body of this report, a review of the

Additional Commitments and the reasons for certification decisions are included as Appendix 1 to this report.

E. Other Reporting Requirements

Both the first and second parts of the MCD contain a number of other reporting requirements. (See Attachment 1 to IVA Response to 64th Report, L.J. MCD Notification and Reporting Requirements (IVA, 7.12.19)). Defendants have reported on five of these other reporting requirements in the 66th Report.

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

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

Defendants state: "BCDSS continues to notify the Plaintiffs' counsel of the death of any class member as required by this provision of the MCD. The Agency strives to ensure timely submission of required incident and fatality reports. … The Agency is exploring process changes that will assure the highest level of compliance with all the requirements of this section." (Defendants' 67th Report., pp. 36-37).

From July 1, 2021 – June 30, 2022, Defendants have provided 21 initial fatality reports, all promptly, all within two working days of the deaths. Unfortunately, while some of the final fatality reports were received relatively timely – within two weeks of the reports' completion dates – a half dozen were received up to six months after they were completed, and most of those only after a reminder from the IVA. The IVA also remains concerned about the paucity of information and

recommendations provided in some of the final fatality reports where the reports appear to be solely a summary of the neglect and abuse investigation disposition.

Of the incident reports received by the IVA, they generally were provided soon after the events occurred, although not always within one working day. Follow-up reports were not provided consistently.

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

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

Defendants state: "There are no such reports known to Defendants at this time." (Defendants' 67h Report, p. 37).

The IVA received no such reports during the 67th reporting period and is not aware of any such reports received by Defendants but not provided to the IVA as required. However, the IVA has learned that there was such a report provided to Defendant DHS during the 66th reporting period which was never shared with the IVA. The Maryland General Assembly's Department of Legislative Services' Office of Legislative Audits issued a report in June 2021 (see Attachment 12 to this report) with findings that the Social Services Administration had not established oversight or the oversight was insufficient in the following areas:

Foster care placement recordkeeping

Medical and dental exams for foster care children

School attendance for school-aged children

Child abuse and neglect investigations

Substance-exposed newborn risk assessments

Children born to individuals with parental rights previously terminated

The first four areas are directly connected to L.J. requirements, and the last two certainly are relevant to issues of safety critical for all children. This report should have been provided under this requirement of the MCD.

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

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

Defendants provide a summary of its "accomplishments" for this requirement, and state that "BCDSS has achieved compliance and is requesting certification." (Defendants' 67th Report, p. 38). Defendants do not attach a copy of their summary report to the 67th Report; it is included with this report as Attachment 13.

In 2019, the parties and the IVA had extensive discussions on how to create and implement the required "complaint process." However, in the 67th Report, Defendants state that "while the process itself was approved, the written policy was never finalized. BCDSS is committed to finalizing a process that ensures a 'user -friendly' and responsive experience for consumers" but provides no indication as to when. Defendants also provide in their "Complaint Process Summary Report" that they will provide access to the complaint tracker for class members beginning July 1, 2022. The IVA has not been notified of any such access as of the date of this report. The IVA cannot certify compliance when Defendants themselves state that the policy and process are not finalized. In addition, Defendants ignore the questions raised by the IVA in the IVA's Response

to Defendants' 66th Report: the summary does not speak to questions about whether the process as presented to Plaintiffs' counsel and the IVA and described in the brochure created for public dissemination was followed. For example, were complaints acknowledged in writing within three business days? After the review/investigation of the reported issue was completed, was a letter sent to the complainant by the Director with the outcome?

While Defendants' Complaint Process Summary provides some useful information about some of the types of complaints received, they only specifically address 31 of 66 reported complaints; the rest are broadly categorized as "under the umbrella of lack of communication." Although Defendants do not need to go into explicit detail about every single complaint, the current summary is unacceptably vague. The IVA continues to extend the offer to meet with Defendants and Plaintiffs' counsel to discuss expectations around what the summary of reports should include.

4. MCD Part Two, Section II. Out of Home Placement, Section D 1. A. (4)

> *Plaintiffs' counsel will be notified within ten working days of any child being placed on a waiting list or in temporary placement.*

Defendants did not report on this requirement in the 67th Report. BCDSS has continued to send a weekly list of children who have overstayed the period of medical necessity in hospitals and children who are on waiting lists to locate or be placed in new settings.

5. MCD Part Two, Section II. Out of Home Placement, Section D. 9. A. (1) (b)

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

Defendants reported on this requirement only through its report of data for Exit Standard 66, which requires 95% compliance with those requirements. By its own measurement, it complied with the requirement of providing the maltreatment report within five days in 73.47% of cases and the requirement of providing the disposition within five days in only 14.29% of cases. (Defendants' 67th Report, pp. 83-84).

Respectfully Submitted,

/s/
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Copies provided on September 16, 2022, by email to:

Lourdes Padilla, DHS Secretary
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David Beller, Attorney for Defendants
James Becker, Attorney for Defendants
Judy Meltzer, Forum Facilitator
Kathleen Noonan, Forum Facilitator

LIST OF ATTACHMENTS

Attachment 1. IVA Assessment of Staffing Needs to Complete LJ Reports (6.8.22).

Attachment 2. Defendants' Response to IVA Memo re Need for Completion (7.15.22).

Attachment 3. Sixto Cancel, My Brother's Story (6.22.22) Sixto Cancel (June 22, 2022). My Brother's Troubling Story Shows Why Philanthropy Should Avoid Investing in Institutional Care. *Journal of Philanthropy.* https://www.philanthropy.com/author/sixto-cancel.

Attachment 4. Sixto Cancel (September 16, 2021). I Will Never Forget That I Could Have Lived with People Who Loved Me. *New York Times.*

Attachment 5. Casey Family Programs (July 2020). *How Can We Prioritize Kin*. https://caseyfamilypro-wpengine.netdna-ssl.com/media/SF_ Adapting-Home-Studies-for-Kin_fnl.pdf.

Attachment 6. BCDSS Child Welfare Trends, July 2022.

Attachment 7. Miller and Bowie (September 15, 2022). Maryland Foster Children Are Being Kept Overnight in Hotels and Downtown Office Buildings, *The Baltimore Banner.*

Attachment 8. Institute for Innovation and Research, Baltimore City Placement Review (June 2022).

Attachment 9. Behavioral Health Systems Baltimore, Request for Proposals, Mental Health Services for Children in Out-of-Home Care. (May 2022)

Attachment 10. *Human Services Staffing Shortage is at an 'An All-Time High,'* (February 3, 2022) Maryland Matters.org.

Attachment 11. LJ Measure Instructions 38, 49-51, 52, 67, 117, 118, 121, 124, 126 (March - May 2021)

Attachment 12. Maryland General Assembly's Department of Legislative Services' Office of Legislative Audits, DHS/SSA Audit (June 2021).

Attachment 13. BCDSS, Complaint Process Summary Report for 67th Reporting Period (June 2022)