

Settlement Agreement Summary

United States vs. the Commonwealth of Virginia

History

In August 2008, the Department of Justice (DOJ) initiated an investigation of Central Virginia Training Center (CVTC) pursuant to the Civil Rights of Institutionalized Persons Act (CRIPA). In April 2010, DOJ notified the Commonwealth that it was expanding its investigation to focus on Virginia's compliance with the Americans with Disabilities Act (ADA) and the U.S. Supreme Court Olmstead ruling. The Olmstead decision requires that individuals be served in the most integrated settings appropriate to meet their needs and consistent with their choice. In February 2011, DOJ submitted a findings letter to Virginia, concluding that the Commonwealth fails to provide services to individuals with intellectual and developmental disabilities in the most integrated setting appropriate to their needs.

In March 2011, Virginia entered into negotiations with DOJ in an effort to reach a settlement to avoid extremely costly and lengthy court battle with the federal government. On January 26, 2012, Virginia and DOJ reached a settlement agreement. The agreement resolves DOJ's investigation of Virginia's training centers and community programs and the Commonwealth's compliance with the ADA and Olmstead with respect to individuals with intellectual and developmental disabilities. On August 23, 2012, the United States District Judge, John A. Gibney, Jr. granted the Joint Motion for Entry of Settlement Agreement stating that the Court found the consent decree to be fair, reasonable, adequate, and in the public interest.

Goals

The overarching goals of the agreement are to develop a system of services that supports individuals participation in the community in the most integrated settings possible and consistent with an individual's choice and to implement a Quality Management system that monitors, collects and trends data, identifies areas of needed improvements and implements strategies to address concerns.

Target Population

The target population under this agreement is individuals with an intellectual/developmental disability who meet any of the following additional criteria: (1) Currently reside at any of the training centers, (2) Meet the criteria for the Developmental Disability (DD) waiver wait lists, or (3) Currently reside in a nursing home or ICF/IID.

Key Expectations for Meeting Compliance with the Settlement Agreement

Enhancement of Community Services

The Commonwealth is required to provide additional access to home and community based services and a comprehensive Individual and Family Support Program (IFSP):

- Create 4,170 waiver slots for the target population by June 30, 2021
- Develop an individual and family support program to include a comprehensive and coordinated set of strategies to ensure access to person and family-centered resources and supports and offer financial supports to a minimum of 1000 individuals/families annually who are not receiving waiver services
- Publish guidelines for families seeking intellectual/developmental disability services on how and where to apply for and obtain services.

Case management

The Commonwealth must enhance its system of case management to ensure that:

- All waiver service recipients receive case management from case managers who do not provide other direct services.

- For individuals meeting prescribed criteria, a case management contact occurs every 30 days face to face, including one visit every 60 days occurring at the individual's residence.
- A case management assessment is conducted regularly to identify and assess risks, injuries, needs, or other changes in status; and to determine whether the individual's support plan is being implemented properly.

Crisis

Virginia must develop a statewide community based crisis system for individuals with intellectual/developmental disabilities:

- Crisis system is available 24 hours a day/7days a week/365 days a year
- Mobile crisis response is available in home and community settings
- Out of home crisis stabilization programs are available in each region

Integrated Day and Supported Employment

The Commonwealth is required to establish an Employment First Policy and develop and implement a plan to increase integrated day opportunities, including supported employment, for individuals in the target population.

Independent Housing

The Commonwealth must develop a plan to increase independent living options for the target population.

Discharge Planning and Transition from Training Center

Discharge plans must be developed for all individuals in training centers using a documented, person-centered planning and implementation process. The plans must be an individualized support plan for transition into the most integrated settings, services and supports based on the individual's needs and desire.

Quality and Risk Management System

The Commonwealth must ensure that that all services for individuals in the target population are of good quality, meet individuals' needs, and help individuals achieve positive outcomes, including avoidance of harms, stable community living, as well as increased integration, independence, and self-determination. The quality management system requirements include:

- All public and private providers must implement risk management and quality improvement processes, including establishment of uniform risk triggers and thresholds.
- The establishment of a real time, web-based incident report system and reporting protocol
- Monthly mortality reviews conducted for deaths reported through its incident reporting system
- The collection and analysis of consistent, reliable data to improve the availability and accessibility of services for individuals in the target population and the quality of services.
- The establishment of Regional Quality Councils (RQCs) that meet quarterly and assess relevant data, identify trends, and recommend actions to be presented back to the Quality Improvement Committee.
- Development of a core-competency based training curriculum for case manager and staff providing direct services.
- Regular, unannounced licensing inspections of community providers and more frequent licensure inspections for community providers meeting prescribed criteria outlined in the SA.
- Quality Service Reviews must be conducted to evaluate the quality of services at the individual, provider, and state-wide level individuals receiving services under the Agreement.

Independent Reviewer

Virginia and DOJ jointly selected Donald Fletcher as an Independent Reviewer for this Agreement. He and, under his direction, his team of consultants conduct studies and Individual Services Reviews (ISRs) to review data and documentation to determine whether the Commonwealth is in compliance with the provisions of the Agreement. The Independent Reviewer provides a Report to the Court on the status of implementation twice each year.