

Health and Human Resources

Update: Department of Justice Negotiations,
and the Behavioral Health and Developmental
Services Trust Fund

Deputy Secretary of Health and Human Resources

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DOJ Findings

Department of Justice – Civil Rights Division

Investigation of the Central Virginia Training Center and the Commonwealth of Virginia's compliance with Title II of the Americans with Disabilities Act as interpreted by *Olmstead v. L.C.*

- Failure in providing services in the most integrated and appropriate setting
- Failure to develop a sufficient quantity of community-based alternatives, particularly for individuals with complex needs
- Flawed discharge planning process at training centers
- Places individuals in the community at-risk of unnecessary institutionalization

DOJ Negotiation Process

Virginia Team

Lead Counsel-Office of the Attorney General

Deputy Secretaries-OSHHR

Deputy Commissioner/Director-DMAS, DBHDS

Deputy Director-Department of Planning and Budget

Technical Support

Counselor and Senior Advisor to the Governor

Staff/Leadership – OSHHR, DPB, DMAS, DBHDS,

Consult

Governor McDonnell

Chief of Staff

Secretary of Health and Human Resources

Secretary of Finance

Counselor and Senior Advisor to the Governor

DOJ Negotiation Process

- **Divided settlement negotiation into topics**
- **Meeting frequently**
 - Phone or Face to Face
- **Lead Attorneys in frequent communication**
 - Sharing draft negotiation documents
 - Providing data/feedback
 - Working to provide follow-up information requested via meetings

Behavioral Health and Developmental Services Trust Fund (§37.2-319)

- Funds to be used to provide services for: individuals with mental illness, substance use, intellectual disabilities and to facilitate transition of individuals with intellectual disabilities from state training centers to community-based services
- Secretary of Health and Human Resources must develop a plan to transition individuals from training centers to community-based settings:
 - Offer a broad array of community-based services
 - Address the availability of appropriate community housing
 - Include facility specific objectives and timeframes to implement changes
 - Include input from individuals receiving training center services, their families, CSBs, private providers, and DMAS
 - Plan submitted to the Governor and General Assembly before November 1, 2011

Behavioral Health and Developmental Services Trust Fund (§37.2-319)

- Virginia expects DOJ resolution prior to the expenditure of most funds
- Public Hearings in each Training Center Region (Summer 2011)
 - CVTC (Region 1) – two hearings
 - NVTC (Region 2) – one hearing
 - SWVTC (Region 3) – two hearings
 - SVTC (Region 4) – one hearing
 - SEVTC (Region 5) – one hearing
- Solicit input regarding training centers and community-based services from:
 - Individuals living at training centers
 - Family members
 - CSBs
 - Private providers
 - Other interested parties

Trust Fund Expenditures – to date

Trust Fund Coordinator – salary and expenses (manages the Trust Fund; coordinates discussions re: DOJ; works with agencies in their efforts to transition individuals to the community)	\$80,000
Community Integration Managers (will be located at facilities to provide management of the transitional/discharge process)	\$100,000
START Coordinator (provides oversight of START/crisis response teams) (START is a national initiative that strengthens efficiencies and service outcomes for individuals with intellectual/developmental disability needs in the community)	\$100,000
Training Center Operations Manager (works with the facilities to ensure survey readiness and that facilities maintain certification)	\$50,000

Medicaid Home and Community Based Services: ID/DD/Day Support Waiver Research – Budget- Item 297, BBBBB

- The 2011 General Assembly mandated the Departments of Medical Assistance Services (DMAS) and Behavioral Health and Developmental Services (DBHDS) to report on recommended enhancements and costs to the Intellectual Disabilities (ID), Day Support and Individual and Family Developmental Disability Support (IFDDS) Waivers;
- The report is due by October 1, 2011 to the Governor and Chairmen of the Senate Finance and House Appropriations Committees.

Budget- Item 297, BBBBB

- DMAS and DBHDS built upon recent studies to identify gaps in services and identify methods to assist individuals to reside in viable community settings rather than institutions.
- Accompanying recommendations for service enhancements and potential changes to state and local administration of the waivers are included.
- Completion of the “BBBBB” Report will enable Virginia to respond to the changing needs and preferences of individuals with DD/ID.

Budget- Item 297, BBBBB

The report will include options for consideration and financing by the General Assembly. Additionally, any HCBS waiver change requires approval from CMS.

Short Term Options	Long Term Options
<ul style="list-style-type: none">•Adjust Medicaid provider rates to increase availability of smaller residential settings•Create an exceptional rate for individuals receiving residential support services (high medical and/or behavioral needs)•Increase number of services available in the Day Support Waiver	<ul style="list-style-type: none">•Modification of target population•Modification of the case management structure•Adjustment to the waiting list process

Moving Forward

Regardless of a settlement with the Department of Justice, the Administration is committed to moving forward to ensure that individuals with disabilities, who want the opportunity to live in the community, have the supports and services to do so.