



**UPDATE**

***US v. VA* Settlement Agreement**

**Aug 12, 2021**

**U.S. Department of Justice  
Civil Rights Division  
Special Litigation Section**

# ***Background***

- **Investigation – Apr. 2010**
- **Findings – Feb. 2011**
- **Settlement Agreement Approved–Aug. 2012**
- **Implementation / Enforcement – Ongoing**
- **GOALS:**   **Integration**  
                  **Self-determination**  
                  **Quality services**

# ***Background***

**“To prevent the unnecessary institutionalization of individuals with ID/DD and to provide them opportunities to live in the most integrated settings appropriate to their needs.”**

Section III. A. of Settlement Agreement

**“To ensure that all services for individuals receiving services under this Agreement are of good quality, meet individual needs, and help individuals achieve positive outcomes in all domains of life.”**

Section V. A. of Settlement Agreement

# ***DOJ Actions***

- **Meet with Stakeholders**
- **Review Data, Documents, Records**
- **Meet with Virginia Leadership**
- **Meet with Independent Reviewer-Donald Fletcher**
- **Status Conferences with the Court**

# ***Is DOJ still here?***

- **YES!**
- **Settlement Agreement was anticipated to end June 30, 2021.**
- **But the Settlement Agreement does not end until Virginia is in full compliance.**

**Dec 30, 2020**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Richmond Division**

UNITED STATES OF AMERICA, )

Plaintiff, )

v. )

COMMONWEALTH OF VIRGINIA, )

Defendant. )

CIVIL ACTION NO:  
3:12cv59-JAG

PEGGY

files this Notice to dispute compliance. Relying on the Independent Reviewer's determinations,

the United States asserts that the Commonwealth is not in compliance with the Agreement.

Further, the United States asserts that the Commonwealth cannot attain compliance with the Agreement by the end of State Fiscal Year 2021 (June 30, 2021). The updated chart at

files this Notice to dispute compliance. Relying on the Independent Reviewer's determinations, the United States asserts that the Commonwealth is not in compliance with the Agreement. Further, the United States asserts that the Commonwealth cannot attain compliance with the Agreement by the end of State Fiscal Year 2021 (June 30, 2021). The updated chart at Attachment A provides the United States' assessment of the Commonwealth's compliance with each provision, noting where the Commonwealth has achieved sustained compliance with the provision, is not in compliance with the provision, or has achieved compliance for one period but

Bolded font denotes a change from the Chart of Compliance filed on April 1, 2020; ECF 375-1

## ATTACHMENT A

### UNITED STATES' CHART OF COMPLIANCE

| Settlement Agreement Reference | Provision  | Assessment                  |
|--------------------------------|--|-----------------------------|
| <b>III</b>                     | <b>Serving Individuals with Developmental Disabilities in the Most Integrated Setting</b>  |                             |
| <b>III.A</b>                   | To prevent the unnecessary institutionalization of individuals with ID/DD and to provide them opportunities to live in the most integrated settings appropriate to their needs consistent with their informed choice, the Commonwealth shall develop and provide the community services described in this Section.   | Non Compliance              |
| <b>III.C.1.a.i-ix</b>          | <p>C. Enhancement of Community Services</p> <p>1. By June 30, 2020, the Commonwealth shall create 4,170 waiver slots for the target population, to be broken down as follows:</p> <p>a. The Commonwealth shall create a minimum of 805 waiver slots to enable individuals in the target population in the Training Centers to transition to the community according to the following schedule:</p> <p>i. In State Fiscal Year 2012, 60 waiver slots</p> <p>ii. In State Fiscal Year 2013, 160 wavier slots</p> <p>iii. In State Fiscal Year 2014, 160 waiver slots</p> <p>iv. In State Fiscal Year 2015, 90 wavier slots</p> <p>v. In State Fiscal Year 2016, 85 waiver slots</p> <p>vi. In State Fiscal Year 2017, 90 waiver slots</p> <p>vii. In state Fiscal Year 2018, 90 waver slots</p> <p>viii. In State Fiscal Year 2019, 35 waiver slots</p> <p><b>ix. In State Fiscal Year 2020, 35 waiver slots</b></p> | <b>Sustained Compliance</b> |
| <b>III.C.1.b.i-ix</b>          | <p>The Commonwealth shall create a minimum of 2,915 waiver slots to prevent the institutionalization of individuals with intellectual disabilities in the target population who are on the urgent waitlist for a waiver, or to transition to the community individuals with intellectual disabilities under 22 years of age from institutions other than the Training Centers (i.e., ICFs and nursing facilities), according to the following schedule:</p> <p>i. In State Fiscal Year 2012, 275 waiver slots</p>  | <b>Sustained Compliance</b> |

# Dec 30, 2020

[www.justice.gov/crt/united-states-v-commonwealth-virginia](http://www.justice.gov/crt/united-states-v-commonwealth-virginia)

[United States  
Compliance Chart  
\(12/30/2020\)](#)

**March 11, 2021**

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Richmond Division

UNITED STATES OF AMERICA,  
Plaintiff,

v.

Civil Action No. 3:12cv59

COMMONWEALTH OF VIRGINIA,  
Defendant,

and

PEGGY WOOD, et al.,  
Intervenor-Defendants.

**ORDER**

This matter comes before the Court after a status conference in this case. In his December

15, 2020 Report, the Independent Reviewer reported that the Commonwealth had achieved

**Accordingly, the Court extends the anticipated end of the Consent Decree to July**

**1, 2022, and retains jurisdiction of this action for all purposes until July 1, 2022. If any party**

The Court commends the parties, and especially the Commonwealth, on a job well done as to those portions of the Consent Decree.

In his December 15, 2020 Report, the Independent Reviewer also reported that the Commonwealth remains out of compliance with many sections of the Consent Decree. At the status conference, the parties agreed and also reported that the Commonwealth would not be able to achieve full compliance by July 1, 2021—the date the Consent Decree identifies as when “[t]he Parties anticipate that the Commonwealth will have” achieved full compliance. (Consent Decree at 33, § VII.B.) Accordingly, the Court extends the anticipated end of the Consent Decree to July





May 10, 2021

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Richmond Division

UNITED STATES OF AMERICA,

Plaintiff,

v.

COMMONWEALTH OF VIRGINIA,

Defendant,

and

PEGGY WOOD, et al.,

Intervenor-Defendants.

CIVIL ACTION NO:  
3:12cv59-JAG

[www.justice.gov/crt/united-states-v-commonwealth-virginia](http://www.justice.gov/crt/united-states-v-commonwealth-virginia)

UNITED STATES' SUBMISSION PURSUANT TO MARCH 11, 2021 ORDER  
REGARDING COURT'S AUTHORITY TO ADDRESS  
THE COMMONWEALTH'S NONCOMPLIANCE WITH CONSENT DECREE

**I. INTRODUCTION**

The United States submits this response to the Court's March 11, 2021 Order, ECF 390.

In that order, the Court noted the parties' agreement that "the Commonwealth would not be able to achieve full compliance by July 1, 2021 – the date the Consent Decree identifies as when '[t]he Parties anticipate that the Commonwealth will have achieved full compliance,'" and directed the United States to "file a brief addressing the following issues:"

- (1) What authority does the Court have to extend the timeline for the Commonwealth to comply with the consent decree and to retain jurisdiction over the action?

b. *The Court retains jurisdiction over the consent decree until full compliance is reached.*

**May 10, 2021**

As stated in the United States' Notice Objecting to March 11, 2021 Court Order, ECF 391, the Court retains jurisdiction over the consent decree until full compliance is reached, and that jurisdiction does not depend upon a particular date. The consent decree specifically provides for the possibility that the Commonwealth would not achieve compliance by June 30, 2021, and that the Court's jurisdiction would extend: "The Court shall retain jurisdiction of this action for all purposes until the end of State Fiscal Year 2021 unless: . . . (2) The United States disputes that the Commonwealth is in compliance with the Agreement at the end of State Fiscal Year 2021." § VII.B.2. The United States timely disputed compliance pursuant to § VII.B.2, ECF 385, and the Commonwealth has not challenged this noncompliance determination. In fact, at the March 10, 2021 status conference, the Commonwealth agreed that it "would not be able to achieve full compliance by July 1, 2021." ECF 390 at 1; *see also* Commonwealth's Resp. to Extension of Settlement Agreement to July 1, 2022, ECF 392 at 10-11 (projecting full compliance with the decree would not occur until December 31, 2023). *Under the terms of the consent decree, the Court retains jurisdiction until compliance is reached.*

May 10, 2021

In summary, the Court has the authority to extend the timeline for the Commonwealth to comply with the consent decree as a remedy for the Commonwealth's noncompliance, and it retains continuing jurisdiction over the consent decree. The consent decree sets out the procedural steps for the United States to follow when seeking judicial relief to remedy the Commonwealth's noncompliance with the decree. The Court may impose a broad range of equitable remedies for noncompliance, including: ordering specific performance; instituting plans or timelines for compliance; addressing barriers to creating community placements; issuing fines or penalties; and appointing technical experts, monitors, special masters, or a receiver. The Court may also hold the Commonwealth, its agencies, and its officials in contempt and may impose sanctions.

**June 13, 2021**

REPORT OF THE INDEPENDENT REVIEWER  
ON COMPLIANCE  
WITH THE  
SETTLEMENT AGREEMENT  
UNITED STATES v. COMMONWEALTH OF VIRGINIA

United States District Court for  
Eastern District of Virginia

Civil Action No. 3:12 CV 059

October 1, 2020 – March 31, 2021

**Independent Reviewer's  
report showed  
noncompliance with 50  
provisions.**

**[www.justice.gov/crt/united-states-v-commonwealth-virginia](http://www.justice.gov/crt/united-states-v-commonwealth-virginia)**

Respectfully Submitted By



Donald J. Fletcher  
Independent Reviewer  
June 13, 2021

**July 19, 2021**

- D. With the exception of conditions or practices that pose an immediate and serious threat to the life, health, or safety of individuals receiving services under this Agreement, if the United States believes that the Commonwealth has failed to fulfill any obligation under this Agreement, the United States shall, prior to initiating any court proceeding to remedy such failure, give written notice to the Commonwealth which, with specificity, sets forth the details of the alleged noncompliance.
1. With the exception of conditions or practices that pose an immediate and serious threat to the life, health, or safety of individuals covered by this Agreement, the Commonwealth shall have forty-five (45) days from the date of such written notice to respond to the United States in writing by denying that noncompliance has occurred, or by accepting (without necessarily admitting) the allegation of noncompliance and proposing steps that the Commonwealth will take, and by when, to cure the alleged noncompliance.

**July 19, 2021**

## Department of Justice

- Submitted formal notification of non-compliance, July 19, 2021
- DBHDS has 45 days to respond
- DBHDS, Attorney General and DOJ meeting regarding concerns starting today.
  1. Case Management
  2. Crisis Services/Complex Behavioral
  3. Integrated Settings
  4. Regional Support Teams
  5. Quality Management System
  6. Risk Management
  7. Mortality
  8. Data, Quality Assurance, and Quality
  9. Provider and CSB Quality Improvement Programs
  10. Training
  11. Licensing and Human Rights



# Settlement Agreement Topics

1. **Waivers**
2. IFSP (Family Supports)
3. Housing
4. Integrated Day Services/Employment
5. Crisis Services
6. Case Management
7. Quality Assurance and Risk Management



# ***Waivers***

**Waiver Totals: 15,359 people (5/2021)**

**Community Living - approx. 11,594**

**Family & Individual Supports - approx. 3,429**

**Building Independence - approx. 336**

# Waivers

## WAIVER SLOTS: REQUIRED VERSUS CREATED FISCAL YEARS 2012 - 2021

| Fiscal Year  | Facility Transition |              | ID/CL       |             | DD/FIS     |             | DS/BI    |             | Total       |             |
|--------------|---------------------|--------------|-------------|-------------|------------|-------------|----------|-------------|-------------|-------------|
|              | Required            | GA* approved | Required    | GA approved | Required   | GA approved | Required | GA approved | Required    | GA approved |
| FY 2012      | 60                  | 90           | 275         | 495         | 150        | 180         | -        | -           | 485         | 765         |
| FY 2013      | 160                 | 160          | 225         | 300         | 25         | 50          | -        | -           | 410         | 510         |
| FY 2014      | 160                 | 160          | 225         | 575         | 25         | 130         | -        | -           | 410         | 865         |
| FY 2015      | 90                  | 90           | 250         | 25          | 25         | 15          | -        | -           | 365         | 130         |
| FY 2016      | 85                  | 85           | 275         | 325         | 25         | 40          | -        | -           | 385         | 450         |
| FY 2017      | 90                  | 90           | 300         | 315         | 25         | 365         | -        | -           | 415         | 770         |
| FY 2018      | 90                  | 100          | 325         | 80          | 25         | 344         | -        | 60          | 440         | 584         |
| FY 2019      | 35                  | 60           | 325         | 154         | 25         | 414         | -        | -           | 385         | 628         |
| FY 2020      | 35                  | 60           | 355         | 160         | 50         | 807         | -        | 40          | 440         | 1067        |
| FY 2021      | -                   | 20           | 360         | 140         | 75         | 650         | -        | -           | 435         | 810         |
| <b>Total</b> | <b>805</b>          | <b>915</b>   | <b>2915</b> | <b>2569</b> | <b>450</b> | <b>2995</b> |          | <b>100</b>  | <b>4170</b> | <b>6579</b> |

# Waivers: Waitlist

Table 1. Count of Individuals on Waitlist by DBHDS Region and Priority

| DBHDS Region         | Priority 1 | Priority 2 | Priority 3 | Total  | Percent |
|----------------------|------------|------------|------------|--------|---------|
| 1                    | 983        | 814        | 823        | 2,620  | 19%     |
| 2                    | 1,233      | 2,213      | 1,065      | 4,511  | 33%     |
| 3                    | 328        | 868        | 605        | 1,801  | 13%     |
| 4                    | 607        | 1,533      | 461        | 2,601  | 19%     |
| 5                    | 288        | 1,023      | 882        | 2,193  | 16%     |
| Unknown <sup>1</sup> | -          | 1          | 3          | 4      | 0%      |
| Total                | 3,439      | 6,452      | 3,839      | 13,730 | 100%    |
| Percent              | 25%        | 47%        | 28%        | 100%   |         |

Table 2. Count of Individuals on Waitlist by Time on Waitlist and Age

| Time on Waitlist <sup>2</sup> | Age   |               |               |     | Total  | Percent |
|-------------------------------|-------|---------------|---------------|-----|--------|---------|
|                               | <18.0 | 18.0 to <22.0 | 22.0 to <65.0 | 65+ |        |         |
| <1.0 year                     | 1,169 | 326           | 446           | 9   | 1,950  | 14%     |
| 1.0 to <3.0 years             | 2,849 | 794           | 1,022         | 29  | 4,694  | 34%     |
| 3.0 to <5.0 years             | 1,582 | 459           | 580           | 11  | 2,632  | 19%     |
| 5.0 to <10.0 years            | 1,622 | 525           | 966           | 21  | 3,134  | 23%     |
| 10+ years                     | 262   | 245           | 783           | 30  | 1,320  | 10%     |
| Total                         | 7,484 | 2,349         | 3,797         | 100 | 13,730 | 100%    |
| %                             | 55%   | 17%           | 28%           | 1%  | 100%   |         |

48%

# Settlement Agreement Topics

1. Waivers
2. **IFSP (Family Supports)**
3. Housing
4. Integrated Day Services/Employment
5. Crisis Services
6. Case Management
7. Quality Assurance and Risk Management

# ***IFSP***

## **Numbers of people served**

**FY13 – 802                      FY17 – 2,674**

**FY14 – 1,300                  FY18 – 3,210**

**FY15 – 1,202                  FY19 – 3,028**

**FY16 – 2,943                  FY20 – 2,531**

**Total: 17,690 total people served**

**\$22 million spent**

# IFSP

**IFSP-Funding Program Summary 2013 – 2020**

| Fiscal           | Applications Received | Applications Funded | Total Amount Awarded | Average Award Amount | Under 18 | 18 & over | Region 1 (Western) | Region 2 (Northern) | Region 3 (South western) | Region 4 (Central) | Region 5 (Eastern) |
|------------------|-----------------------|---------------------|----------------------|----------------------|----------|-----------|--------------------|---------------------|--------------------------|--------------------|--------------------|
| 2013             | 982                   | 802                 | \$1,814,000          | \$2,261              | 558      | 344       | 100                | 190                 | 107                      | 265                | 140                |
| 2014             | 1545                  | 1300                | \$3,132,356          | \$2,409              | 835      | 457       | 196                | 281                 | 186                      | 399                | 237                |
| 2015             | 5176                  | 1202                | \$3,000,000          | \$2,495              | 832      | 368       | 192                | 295                 | 178                      | 290                | 246                |
| 2016             | 3170                  | 2943                | \$2,748,147          | \$933                | 1997     | 966       | 483                | 820                 | 347                      | 636                | 657                |
| 2017             | 3045                  | 2674                | \$2,601,325          | \$972                | 1695     | 981       | 453                | 745                 | 363                      | 603                | 512                |
| 2018             | 3538                  | 3210                | \$3,150,945          | \$981                | 2177     | 1033      | 540                | 978                 | 405                      | 742                | 545                |
| 2019             | 4497                  | 3028                | \$2,998,243          | \$990                | 3066     | 1431      | 745                | 1314                | 544                      | 1072               | 822                |
| 2020             | 3646                  | 2531                | \$2,500,226          | \$988                | 2532     | 1114      | 651                | 1137                | 429                      | 842                | 587                |
| CUMULATIVE TOTAL |                       | 17690               | \$21,945,242         |                      |          |           |                    |                     |                          |                    |                    |

## IFSP-Funding Program Summary 2013 – 2020 Annual Funding by Eligible Category

### FY 2015 Funding Breakdown

- \$1,193,779 for Safe Living: Respite/Home repairs/Safety and Security Systems
- \$1,021,375 for Improved Health Outcomes: Medical Care/Therapies/Communication Devices
- \$784,846 for Community Integration: Day Support/Transportation/Summer Camps

### FY 2016 Funding Breakdown

- \$719,435 for Safe Living: Respite/Home repairs/Safety and Security Systems
- \$1,033,637 for Improved Health Outcomes: Medical Care/Therapies/Communication Devices
- \$742,803 for Community Integration: Day Support/Transportation/Summer Camps
- \$252,272 for Emergency Supports: Rent or Mortgage/Utility Assistance

### FY 2017 Funding Breakdown

- \$533,572 for Safe Living: Respite/Home repairs/Safety and Security Systems
- \$974,895 for Improved Health Outcomes: Medical Care/Therapies/Communication Devices
- \$729,715 for Community Integration: Day Support/Transportation/Summer Camps
- \$363,142 for Emergency Supports: Rent or Mortgage/Utility Assistance

### FY 2018 Funding Breakdown

- \$717,554 for Safe Living: Respite/Home repairs/Safety and Security Systems
- \$1,074,257 for Improved Health Outcomes: Medical Care/Therapies/Communication Devices
- \$894,926 for Community Integration: Day Support/Transportation/Summer Camps
- \$464,207 for Emergency Supports: Rent or Mortgage/Utility Assistance

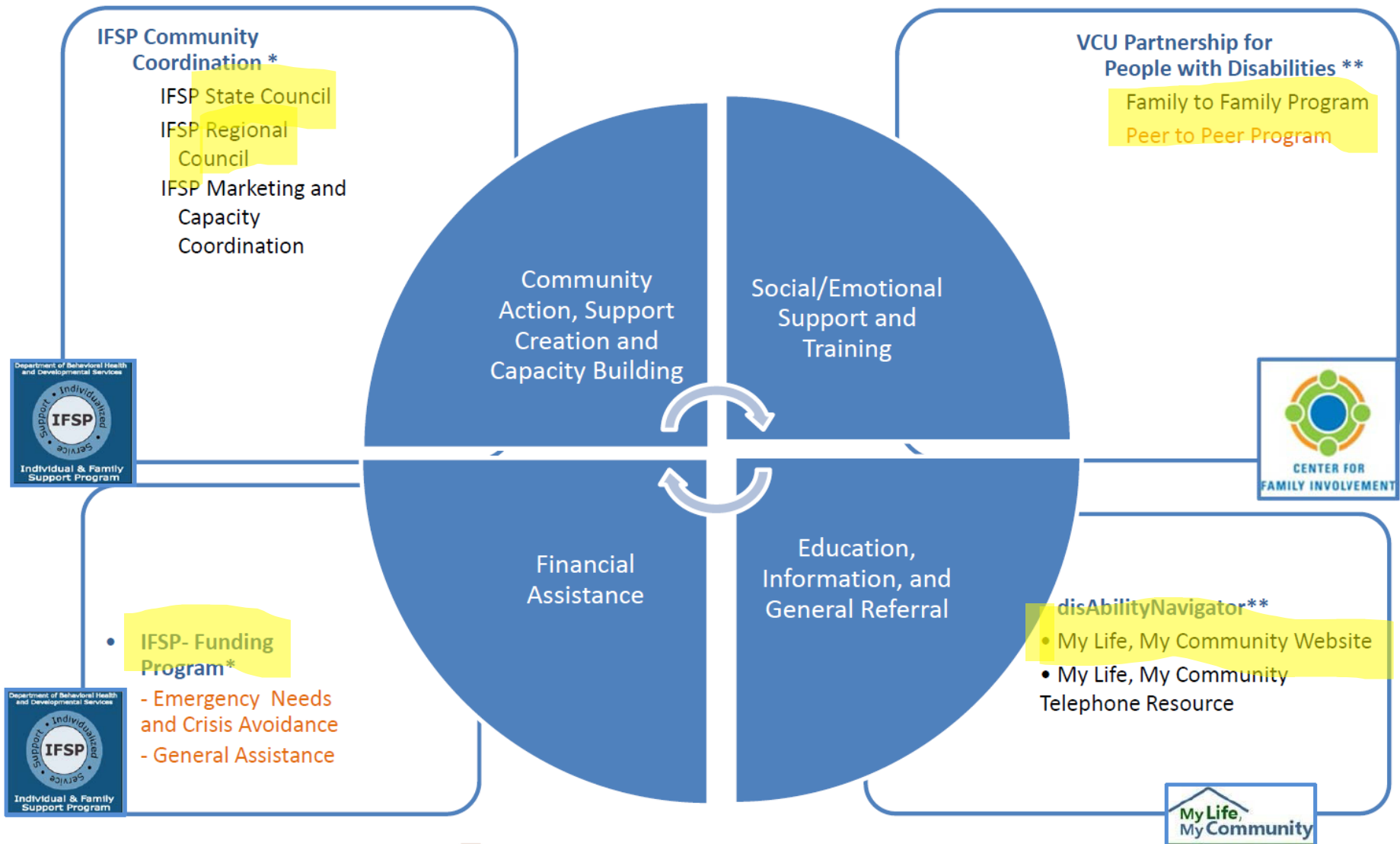
### FY 2019 Funding Breakdown

- \$747,409 for Safe Living: Respite/Home repairs/Safety and Security Systems
- \$906,308 for Improved Health Outcomes: Medical Care/Therapies/Communication Devices
- \$929,272 for Community Integration: Day Support/Transportation/Summer Camps
- \$415,255 for Emergency Supports: Rent or Mortgage/Utility Assistance

### FY 2020 Funding Breakdown

- \$646,170 for Safe Living: Respite/Home repairs/Safety and Security Systems
- \$764,791 for Improved Health Outcomes: Medical Care/Therapies/Communication Devices
- \$647,996 for Community Integration: Day Support/Transportation/Summer Camps
- \$441,269 for Emergency Supports: Rent or Mortgage/Utility Assistance

# IFSP Program Model



Orange indicates proposed program components

\* DBHDS administrated and staffed

\*\* Provided via DBHDS contract or MOU/MOA

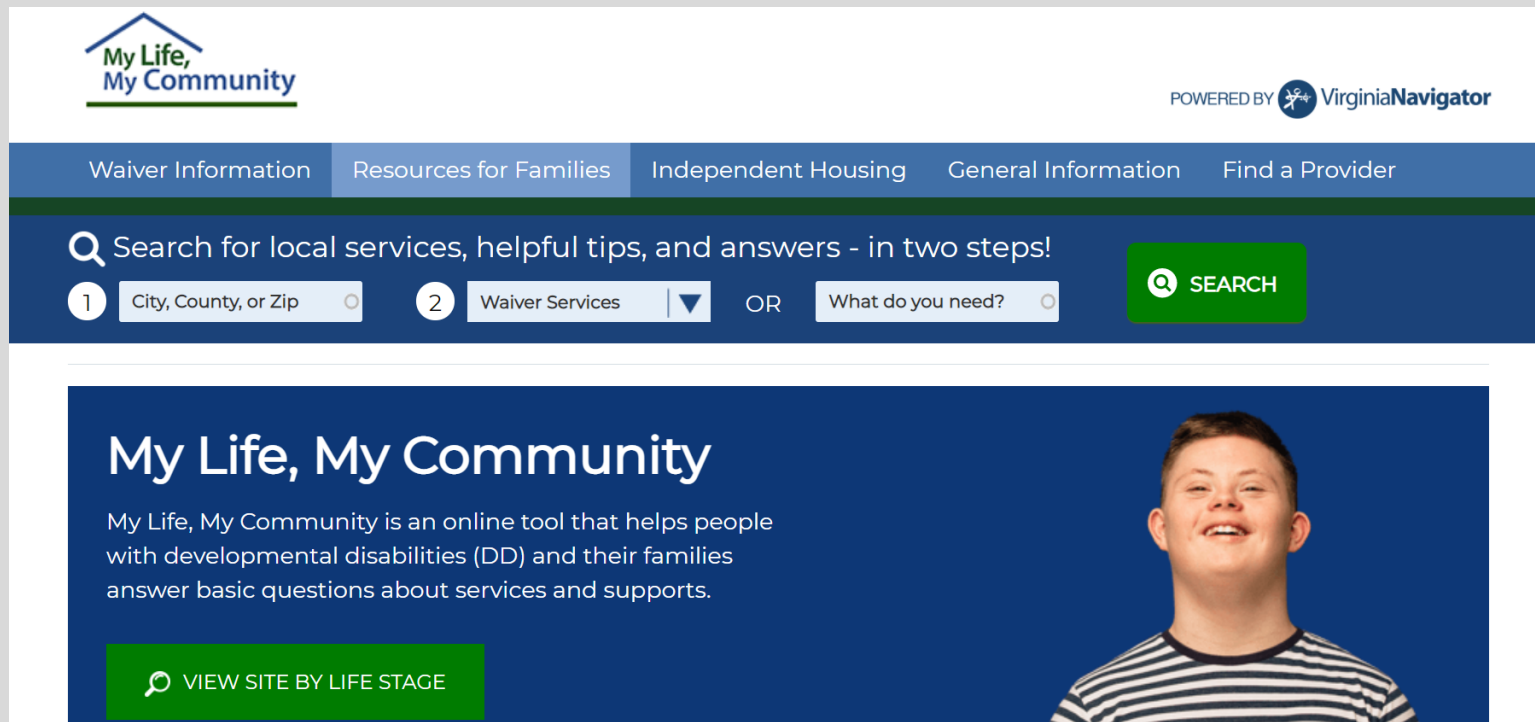


Virginia Department of  
Behavioral Health &  
Developmental Services



# My Life My Community website:

[www.mylifemycommunityvirginia.org](http://www.mylifemycommunityvirginia.org)



The screenshot shows the homepage of the My Life My Community website. At the top left is the logo, which consists of a house icon with the text "My Life, My Community" inside. To the right of the logo, it says "POWERED BY VirginiaNavigator". Below the logo and text is a navigation bar with five tabs: "Waiver Information", "Resources for Families", "Independent Housing", "General Information", and "Find a Provider". Below the navigation bar is a search bar with the text "Search for local services, helpful tips, and answers - in two steps!". The search bar has two input fields: the first is labeled "1" and contains the text "City, County, or Zip"; the second is labeled "2" and contains the text "Waiver Services". To the right of the second input field is a dropdown arrow and the word "OR". To the right of "OR" is another input field containing the text "What do you need?". To the right of the search bar is a green button with a magnifying glass icon and the word "SEARCH". Below the search bar is a large blue banner with the text "My Life, My Community" in white. Below this text is a paragraph: "My Life, My Community is an online tool that helps people with developmental disabilities (DD) and their families answer basic questions about services and supports." To the right of the text is a photo of a smiling young man with short brown hair, wearing a striped shirt. Below the paragraph is a green button with a magnifying glass icon and the text "VIEW SITE BY LIFE STAGE".

If at any time, you cannot find what you are looking for on this site or want to speak with a live person, feel free to call us Toll-free at (844) 603-9248.

Together, we can ensure a life of possibilities for all Virginians.

# ***IFSP***



## **The Individual and Family Support Program**

### **IFSP-Funding FY 2021 Update June 4, 2021**

IFSP Staff continues to work on making critical enhancements to the IFSP-Funding Program.

**At this time, we do not have any new information to share about the opening of the application.**

**Any updates about the Funding Portal will be posted to the My Life, My Community website and emailed via the IFSP Listserv.**

# Settlement Agreement Topics

1. Waivers
2. IFSP (Family Supports)
3. **Housing**
4. Integrated Day Services/Employment
5. Crisis Services
6. Case Management
7. Quality Assurance and Risk Management

# ***Housing***

- **The Settlement required 28 people get independent housing in a pilot program**
- **Virginia has served hundreds more to live in their own home\* by creating a State Rental Assistance Program.**

\*Own home -- Non-provider owned or operated housing that is leased or owned by an individual in the target population.

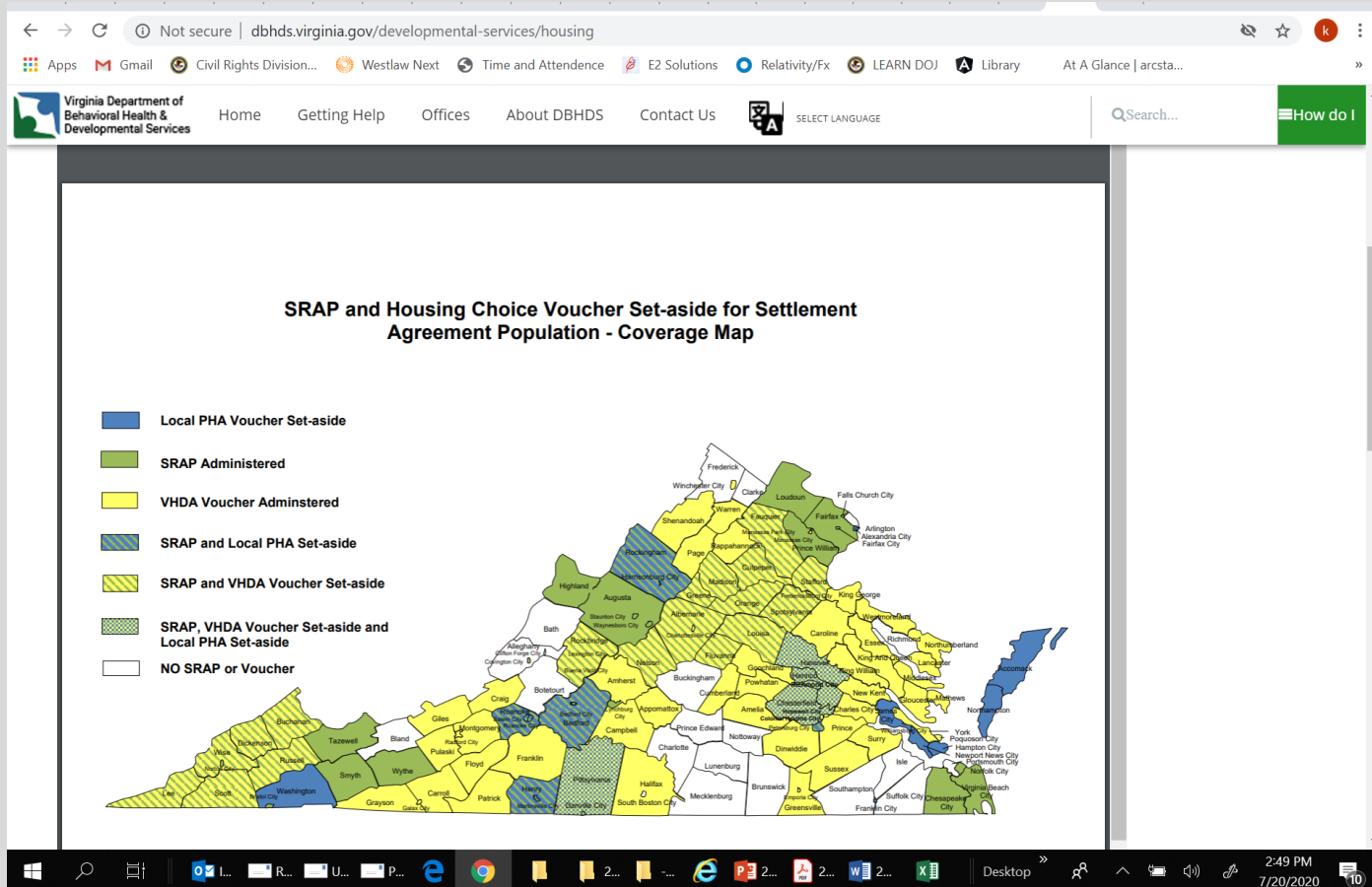
# Housing

## Number of People Living Independently

|                    | <i>Target</i>   | <i>Actual Outcome</i>  | <i>Target</i>  | <i>Actual Outcome</i>  |
|--------------------|---|--|--|--|
| <b>Fiscal Year</b> | <b>Proposed Number of people in Settlement Agreement Population living in Independent Housing each FY</b> | <b>Number of people in Settlement Agreement Population living in Independent Housing each FY</b> | <b>Cumulative Number of people in the Settlement Agreement population living in Independent Housing by Fiscal Year</b> | <b>Cumulative Number of people in Settlement Agreement population living in independent housing each Fiscal Year</b> |
| Baseline           | 341   | 341  | 341  | 28   |
| FY 2015            | 30  | 30   | 373  | 371  |
| FY 2016            | 20  | 101  | 393  | 472  |
| FY 2017            | 41  | 193  | 434  | 665  |
| FY 2018            | 157   | 142  | 591  | 807  |
| <b>FY 2019</b>     | 205   | 147  | 796  | 954  |
| FY 2020            | 409   | 422  | 1,205  | 1,376  |
| <b>FY 2021</b>     | 661   |  | 1,866  |  |

# Housing website:

[www.dbhds.virginia.gov/developmental-services/housing](http://www.dbhds.virginia.gov/developmental-services/housing)



# Housing

Source: Provider Data Summary Report May 2021, page 9, 22

| Setting Type   | Baseline 9.30.16 |       | 3.31.20 |       | 3.31.21 |       | Change from baseline |
|----------------|------------------|-------|---------|-------|---------|-------|----------------------|
| Integrated     | 9,425            | 79.4% | 12,454  | 85.2% | 13,292  | 86.7% | +41%                 |
| Non-integrated | 2,446            | 20.6% | 2,166   | 14.8% | 2,044   | 13.3% | -16%                 |
| Total          | 11,871           | 100%  | 14,620  | 100%  | 15,336  | 100%  | +29%                 |

| Settlement Living Situation                 | Integrated Setting | Baseline 9.30.2016 |               | 3.31.2021     |               |
|---|--------------------|--------------------|---------------|---------------|---------------|
|   |                    | #                  | %             | #             | %             |
| Group Home<br>(Less than or equal to 4 bed) | Yes                | 2,189              | 18.4%         | 2,977         | 19.4%         |
| Other Group Home<br>(greater than 4 bed)    | No                 | 2,446              | 20.6%         | 2,044         | 13.3%         |
| Sponsored Residential                       | Yes                | 1,513              | 12.7%         | 1,931         | 12.6%         |
| Supported Living                            | Yes                | 50                 | 0.4%          | 236           | 1.5%          |
| Living with Family *                        | Yes                | 5,459              | 46.0%         | 7,294         | 47.6%         |
| Living Independently                        | Yes                | 214                | 1.8%          | 729           | 4.8%          |
| Building Independence *                     | Yes                | 0                  | 0.0%          | 125           | 0.8%          |
| <b>Total</b>                                |                    | <b>11,871</b>      | <b>100.0%</b> | <b>15,336</b> | <b>100.0%</b> |

# Settlement Agreement Topics

1. Waivers
2. IFSP (Family Supports)
3. Housing
4. **Integrated Day Services/Employment**
5. Crisis Services
6. Case Management
7. Quality Assurance and Risk Management

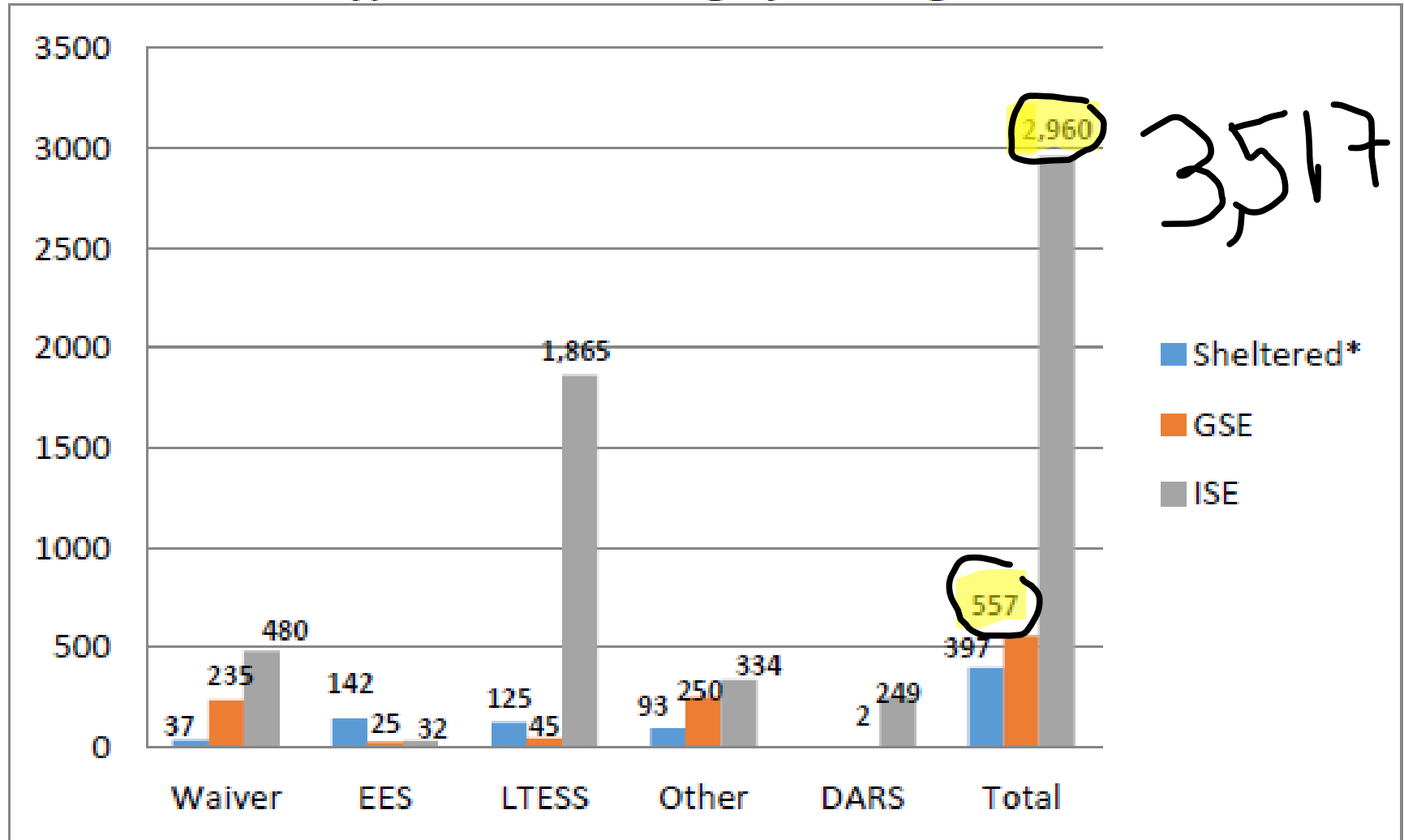


# ***Supported Employment***

- **The Agreement requires Virginia to set employment targets.**
- **In June 2015, Virginia and its Employment First Advisory Group set an Overall Target:**
  - 25% of the total number of individuals with IDD ages 18-64 on the waivers or waitlist (18,621 as of 6/30/2020) would be employed by June 30, 2020, which equaled 4,655 individuals.**
- **Pre-pandemic- VA was on track - 23.5% (Dec 2019)**
- **As of June 30, 2020 - VA was down to 19% (3,517)**

# Supported Employment

Type of Work Setting by Funding Source



# ***Supported Employment***










## **Waiver-funded supported employment**









| <b>Fiscal Year</b> | <b>Target Total</b> | <b>Actual Total (as of June)</b> | <b>Target ISE</b> | <b>Actual ISE (as of June)</b> | <b>Target GSE</b> | <b>Actual GSE (as of June)</b> |
|--------------------|---------------------|----------------------------------|-------------------|--------------------------------|-------------------|--------------------------------|
| <b>2016</b>        | <b>808</b>          | <b>890</b>                       | <b>211</b>        | <b>225</b>                     | <b>597</b>        | <b>665</b>                     |
| <b>2017</b>        | <b>932</b>          | <b>826</b>                       | <b>301</b>        | <b>305</b>                     | <b>631</b>        | <b>521</b>                     |
| <b>2018</b>        | <b>1297</b>         | <b>972</b>                       | <b>566</b>        | <b>422</b>                     | <b>731</b>        | <b>550</b>                     |
| <b>2019</b>        | <b>1211</b>         | <b>1078</b>                      | <b>661</b>        | <b>555</b>                     | <b>550</b>        | <b>523</b>                     |
| <b>2020</b>        | <b>1486</b>         | <b>715</b>                       | <b>936</b>        | <b>480</b>                     | <b>550</b>        | <b>235</b>                     |
| <b>2021</b>        | <b>1685</b>         |                                  | <b>1135</b>       |                                | <b>550</b>        |                                |

**ISE: Individual Supported Employment**  
**GSE: Group Supported Employment**

Source: DBHDS Semiannual Report on Employment (June 2020 Data) 10/4/2020, p.3

# *Integrated Day Services*

| Service                         | Procedure Code | Baseline 9.30.2016   | 9.30.2020   | % change from Baseline |
|---------------------------------|----------------|--|---|------------------------|
| Individual Supported Employment | H2023          |  295 |  887   | + 201%                 |
| Group Supported Employment      | H2024x         |  701 |  452   | - 36%                  |
| Workplace Assistance            | H2025          | 6  |  66    | + 1,000%               |
| Community Engagement            | T2021          |  130 |  2,435 | + 1,773%               |
| Community Coaching              | 97127x,T2013x  |  7   |  279   | + 3,886%               |

| Service                         | Procedure Code | Baseline 9.30.2016  | 3.31.2021   | % change from Baseline |
|---------------------------------|----------------|---|---|------------------------|
| Individual Supported Employment | H2023          |  295   |  782     | + 165%                 |
| Group Supported Employment      | H2024x         |  701 |  376   | - 46%                  |
| Workplace Assistance            | H2025          | 6   |  56    | + 833%                 |
| Community Engagement            | T2021          |  130 |  2,227 | + 1,613%               |
| Community Coaching              | 97127x,T2013x  | 7   |  271   | + 3,771%               |

Source: Provider Data Summary Report Nov 2021, p.20;  
May 2021, p.22

# Settlement Agreement Topics

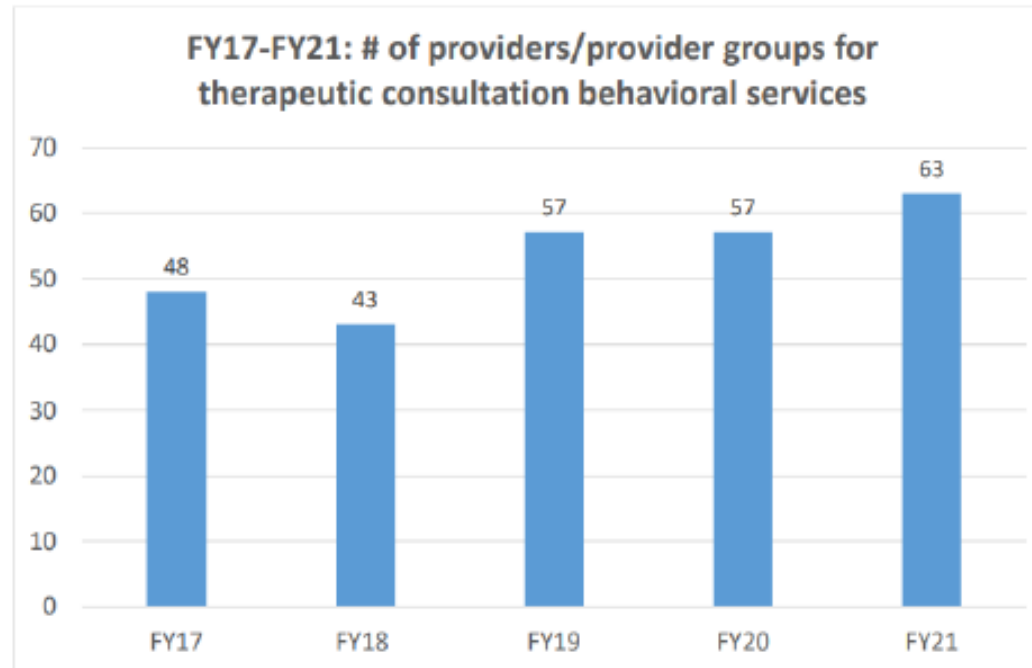
1. Waivers
2. IFSP (Family Supports)
3. Housing
4. Integrated Day/Employment
5. **Crisis Services**
6. Case Management
7. Quality Assurance and Risk Management

# ***Crisis Services***

- **Between Sept 2020 - Feb 2021: 601 individuals needed therapeutic consultation**
- **Only 271 (45%) got a service authorization and had a provider identified within 30 days (another 62 had a provider after 30 days)**
- **Meaning 330 (55%) individuals could not get a behaviorist within 30 days of when they needed one**

# ***Crisis Services***

## **Behavioral Services Providers**



The data above display the number of providers and/or provider organizations providing therapeutic consultation behavioral services over the past five fiscal years (note: FY21 data is through the end of April 2021). It should be noted that the counts presented may display individual practitioners that have a solo practice consisting of one behaviorist, as well as larger provider groups that have many behaviorists employed and are providing this waiver service.

# Settlement Agreement Topics

1. Waivers
2. IFSP (Family Supports)
3. Housing
4. Integrated Day/Employment
5. Crisis Services
6. **Case Management**
7. Quality Assurance and Risk Management



# ***Case Management***



Virginia Department of  
Behavioral Health &  
Developmental Services

Support Coordination Quality  
Review Annual Report

The final report details results from  
the inaugural SCQR survey  
administration period in FY2020.

## **Oversight**

**CSB “Support  
Coordination Quality  
Review”**

**DBHDS “Look  
Behinds”**

# Settlement Agreement Topics

1. Waivers
2. IFSP (Family Supports)
3. Housing
4. Integrated day/Employment
5. Crisis Services
6. Case Management
7. **Quality Assurance and Risk Management**

# ***Quality Assurance & Risk Management***

- **DOJ and VA agreed to compliance indicators that must be met before achieving compliance in this area which covers the following topics:**

- |                                |                                 |
|--------------------------------|---------------------------------|
| 1. Risk Management             | 7. Public Reporting             |
| 2. Investigations/Human Rights | 8. Quality Improvement Programs |
| 3. Mortality Reviews           | 9. Reporting Requirements       |
| 4. Data Collection             | 10. Licensing requirements      |
| 5. The Eight Domains           | 11. Training and Competencies   |
| 6. Regional Quality Councils   | 12. Quality Service Reviews     |

**July 19, 2021**

## Department of Justice

- Submitted formal notification of non-compliance, July 19, 2021
- DBHDS has 45 days to respond
- DBHDS, Attorney General and DOJ meeting regarding concerns starting today.
  1. Case Management
  2. Crisis Services/Complex Behavioral
  3. Integrated Settings
  4. Regional Support Teams
  5. Quality Management System
  6. Risk Management
  7. Mortality
  8. Data, Quality Assurance, and Quality
  9. Provider and CSB Quality Improvement Programs
  10. Training
  11. Licensing and Human Rights

# ***DOJ Settlement Agreement Library***

**Use google: “DOJ Settlement Agreement Library”**

**The Court ordered the Parties to provide by November 6, 2019 “a document system that will allow future measurement of the Commonwealth’s compliance with the consent decree.”**

**“The system will enable interested parties to review documents to determine the Commonwealth’s compliance, even after the consent decree terminates.”**

[illegible]

# ***DOJ Website***

- [www.justice.gov/crt/united-states-v-commonwealth-virginia](https://www.justice.gov/crt/united-states-v-commonwealth-virginia)
  - Investigative Findings, Settlement Agreement
  - Independent Reviewer Reports (all 18 reports)
  - Jan 14, 2020 Compliance Indicators
  - April 1, 2020 Compliance Chart
  - Dec 30, 2020 Compliance Chart
  - May 10, 2021 Court's Authority to Address the Commonwealth's Noncompliance with Consent Decree

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