

Interim Monitor's Report (USA v. Rhode Island)
March, 2023

Introduction

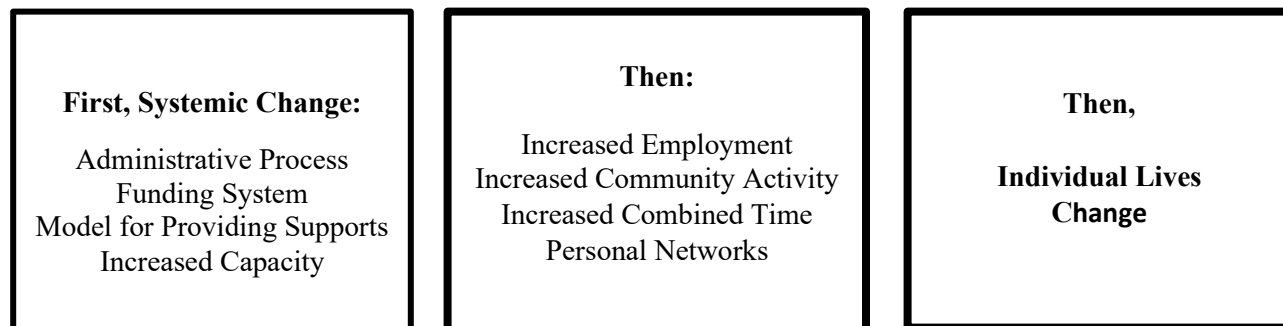
The December 10, 2022 Court Order and the December 15, 2022 Status Conference reinforced the **urgency** of actions that need to be complete in order for the State to be in substantial compliance with the Consent Decree.

The December 10, 2022 Court Order detailed the expectations and requirements of the Court. As has been repeatedly discussed during the past three years, substantial compliance will be assessed at four levels.

- **Statewide Systemic Changes** – criterion: 100% of required administrative, procedural, fiscal changes will be fully implemented by July 1, 2023. State will present clear documentation of implementation. *(Discussed on pages 3-11)*
- **Service Provision** – criterion: adult provider organizations have plans for implementing innovative practices to scale; school districts have plans for increasing the number of youth in transition who are employed and have community connections before exiting school; individuals who self-direct will have increase access to information and employment and community supports. *(Discussed on pages 12-15)*
- **Benchmark Data** – criterion: progressive increase in supported employment placements (State Quarterly Report); progressive increase in point-in-time employment rates, hours worked, wages, diversity of job types (Sherlock Employment and Day Activity Survey Semi-Annual Consent Decree Report); progressive increases in integrated community activity, hours in community and range of activities (Sherlock Employment and Day Activity Survey Semi-Annual Consent Decree Report); progressive increases in number of transition youth who are employed and have community connections prior to school exit (data collected by RIDE from school districts); progressive decrease in staff vacancy and turnover rates (Staff Stability Survey). *(Discussed on pages 16-20)*
- **Changes in Individual Lives** – criterion: two-thirds of random sample of individuals will report a community-based life, achievement of personal goals and satisfaction (independent interviews). *(Discussed on pages 21-22)*

Additionally, the Court Order identified a number of specific actions to be completed during the first half of 2023.

The Monitor wants (once again) to reinforce the interconnectivity of these components. The Monitor has used several logic models to demonstrate this.



Activities are not outcomes. Meeting the goals of the Consent Decree will not be achieved by one activity or a set of activities, but by fundamental changes in how the system works and how providers and others support individuals. Outcomes and change are documented both by “big data” that measures change in the Consent Decree populations and by changes in the daily lives of individuals.

As ordered by the Court, the State has multiple actions that are to be completed by June 30, 2023. **A full report on those actions and their impact will be compiled in July/August .** This “Interim Report” is intended to offer an assessment of progress towards completion and compliance three months into the calendar year. This report will address the four areas outlined in the December Court Order – systemic change, changes in how supports and services are provided, benchmark data and changes in the lives of a randomly selected sample of individuals. For each of these four areas this report will (a) summarize the major requirements and expectations of the Court, (b) provide a brief summary of current status and (c) the Monitor’s assessment and (d) any additional recommendations or actions.

It should be noted that the State essentially agrees with all of the expectations and required actions. A barrier to completion to all the required tasks has been limited capacity. In response to the Court’s requests, the State has taken several actions to increase their capacity to address the requirements of the Court Order and Consent Decree. First, the State has gotten approval to create eight new positions. These include Coordinator Community Planning and Development; Chief of Staff Development, Training and Quality Improvement; Administrator III Employment Coordinator and positions targeted to addressing the communication issues identified in earlier Monitor reports. Offers have been made and accepted for two of the positions. BHDDH anticipated that all positions will be in place by May 1. BHDDH expects that all new staff will be in place in April. Second, DDD has received approval to hire a Spanish-speaking case manager – that position will be posted this week. Thirdly, as part of the plan to reorganize case management, several existing case managers will be assigned to schools to increase DDD’s presence in local schools. These personnel changes will increase the capacity of the State to comply with the requirements of the Court Order and the Consent Decree.

Level 1 – Statewide Systemic Change

In response to the December Court Order the State developed plans to address the action required in the Court Order. Addendum 1 is a summary of BHDDH's work plan for addressing the core requirements of the Court Order.

Focus 1 – Simplify the application process and all administrative procedure.

- (a) **Summary of Expectations and Requirements** – Individuals and families report that a common barrier to accessing services is the complexity of the application process and complexity of administrative procedures.
- (b) **Current Status** – Five work groups met during 2020-2021 to develop strategies for addressing the administrative barriers identified in the July, 2020 Court Order. Some of these recommendations have been implemented (e.g., annual authorizations, individual budgets, revised procedures for the S109 process and other appeals). Simplified application and referral procedures have been discussed, but the Monitor has not yet seen comprehensive drafts or policy revisions. ORS has a defined referral process which has been reviewed by the Monitor. The process and referral form are simply enough; however, the attachments requested at the end of the form are required by several agencies. This is the type of information that can be gathered and electronically stored in a common place to prevent the applicant from needing to submit multiple times.
- (c) **Monitor's Assessment** – First, although the revised referral and application process is not due until July 1, the Monitor expects to see a draft outlining the process and any changes in forms/procedures from all state organizations that provide services or supports to adults with IDD by early May. Individuals/Families (particularly transition aged youth continue to comment on duplication in the information requested by different agencies; thus, the Monitor continues to recommend some form of a common application or referral in which needed information is presented once and any/all agencies use what they need. Second, the Monitor requests that the State meet with the original five work groups (prior to July) to provide feedback on how their recommendations influenced the State's administrative procedures. Third, recognizing the existing confusion re: administrative procedural changes, aligned with the December Court Order, the State will develop a comprehensive communication plan to ensure that individuals, families and providers understand the new administrative procedures. **Progress toward compliance re: simplifying the application process and eliminating barriers has been adequate** but work on the simplified referral and application process needs to be completed and all the administrative changes need to be **fully implemented and communicated to all stakeholders**.

Focus 2 – Revise the process for assessing support needs, assigning individuals to independent facilitators (aka, Conflict-Free Case Managers), comprehensive person-centered

planning, developing individual budgets, monitoring whether plans and budgets impact individual lives.

(a) Summary of Expectations and Requirements – The process for assessing support needs, independent facilitation, comprehensive person-centered planning, individual budgets, assessing impact is **critical to developing and implementing a person-centered system**. Though various Monitor reports and Court Orders, the Court has been clear that it expects to see the following procedural components implemented for every individual:

- Using several sub-domains of the SIS-A (or the total score) to determine a base support package;
- Using the SIS supplemental questions to add to the base package – support funds to address needs documented by the supplemental questions should be additional to the core supports package;
- Referral to an independent facilitator;
- Development of a comprehensive person-centered plan;
- Individual meetings with every individual (and family and core supports) to determine any additional funding or support needed to effectively implement the individual’s plan;
- Develop the individual budget and allocation. To repeat, the individual budget should have three amounts – the core supports package from the SIS-A, any additional amount documented by the SIS supplemental questions, any additional needed funds documented by the individual meeting;
- A monitoring process (implemented through the Conflict-Free Case Manager) that **assesses the actual impact of the individual plan and the budget on the individual’s life**.

(b) Current Status

- The final report of Health Management Associates (HMA) (Executive Summary attached as Attachment 1; full report is posted on the BHDDH website) addresses many of these components (assessment of support needs and individual budgets).
- A stakeholder group is addressing the other components (independent facilitation, plan development and assessing impact on lives). A PowerPoint summarizing the current strategy for developing and piloting Conflict-Free Case Management is attached as Attachment 2.
- On March 8, 2023 the State issued a Request for Information (RFI) to solicit input re; implementation of the CFCM system. The State has discussed with the Monitor that they intend to use responses to the RFI to refine vendor qualifications and other related issues.

(c) Monitor’s Assessment – Discussions with the State about these issues have been productive and substantive. The State is awaiting final budget recommendations re: cost

of implementation of the rate recommendations and other components. **All of these components must be implemented by July, 2023.** The State will develop an operational plan for implementing all of these components – and will submit a draft of this plan to the Monitor in the next 30 days. This is critical to achieving substantial compliance with the Consent Decree. **Progress towards substantial compliance has been satisfactory.** Ultimate assessment of progress will be determined by the efficiency and breadth of implementation in the next fiscal year.

- (d) Recommendation** – The operational strategies for full implementation of the process outlined above (Expectations and Requirements) for **ALL** individuals with IDD needs to be developed, approved by the monitor and disseminated. The Conflict Free Case Management Pilot (100 people) should not be viewed as the extent of implementation for calendar year 2023. The pilot should be completed quickly so that the process can be implemented with **ALL** individuals with IDD on their next ISP date,

Focus 3 – Implementation of Rate Review Recommendations

- (a) Summary of Expectations and Requirements** – The intent of court-ordered rate review was to (1) to provide a stimulus for reorganization of services and supports, (2) to provide rates that funded actual cost of services and (3) to create a mechanism for indexing rates to avoid the funding issues that hindered the system from providing the supports needed by individuals and agreed to in the Consent Decree.
- (b) Current Status** – The HMA report (Rates and Payment Options Study) is complete. The Executive Summary is attached to this report as Attachment 2. The full report is also posted on the BHDDH website. HMA and the State are finalizing plans to implement the recommendations. **The new rates and organization of services must be implemented by July, 2023.** The State has committed to provide the level of funding needed to implement the recommendations.
- (c) Monitor’s Assessment** – In the Monitor’s opinion, the rate review process has been comprehensive, efficient and qualitative. The rate review process has recommended revisions to the structure of services, how support needs are assessed, the addition of new services....and has projected overall payments will increase by 22% and additional expenditures of approximately 57 million. The FY24 Budget Request documents an increase over FY23 actual expenditures. As stated above, the State has informed the Monitor that revised budget projections are in process and has committed to provide the level of funding needed to implement the recommendations. Thus, **progress toward substantial compliance in the area of rate review has been satisfactory.** The ultimate criterion, however, will be determined by the quality of implementation.

Focus 4 – Ensuring Sufficient Capacity and a Quality Workforce

(a) Summary of Expectations and Requirements – The Court’s approach to the workforce crisis focused on five strategies¹:

- Court-ordered DSP wage increases to \$15.75 in July, 2021; \$18.00 in July, 2022; and \$20.00 in July, 2023.
- Comprehensive review of rates as part of the rate review to establish a long term strategy for rate stabilization.
- Creation of a recruitment process for addressing the immediate needs of all employers – provider organizations and individuals who self-direct.
- Creation of a sustainable long term infrastructure for redefining the DSP position to align with increasing responsibilities, providing professional development, developing competencies and a structure for ensuring those competencies, creating pipelines, developing retention strategies and other issues.
- Providing \$4,000,000 in transformation to assist in addressing immediate needs.

(b) Current Status

- The wage increases have been implemented.
- As discussed earlier, the rate review is complete – the rate review, using \$20.00 as a base rate, projects an average hourly rate of \$22.00+ during the next fiscal year.
- Data from three rounds of the Staff Stability Survey (table below) indicates mixed progress. Hourly wages have increased. The percent of agencies reporting “more staff” at the end of the reporting period has increased. On the negative side, overall separations (i.e., turnovers) have increased. The actual number of DSPs fluctuates with each reporting period.
- The Statewide Workforce Initiative, although significantly delayed, has made some progress. After two “summits” a set of priorities and a plan has emerged. These should now guide the efforts of the workgroups and individuals associated with this initiative.
- The first round of transformation funds have been disseminated. Projects are being implemented.

	July-December 2021	January-June 2022	July-December 2023
Number of DSPs at beginning of reporting period	2589	2863	2689

¹ Action Plan; October, 2021; Document 159-2; filed 10/19/2021

Number of DSPs at end of reporting period	2720	2826	2574
Total number of separations	447	461	573
Total full time staff	2289	2360	2328
Total part time staff	909	1021	903
Total vacancies	678	693	476
% organizations with more staff	26%	42%	50%
% organizations with same staff	45%	32%	22%
% organizations with less staff	29%	24%	28%
Average Starting DSP Wage	\$16.04	\$16.62	\$18.28
Average DSP Hourly Wage	\$16.60	\$17.16	\$19.52

(c) **Monitor’s Assessment** – Several provider organizations have reported to the Monitor that, primarily due to the wage increases, workforce issues are “better”. Wages are significantly higher than the \$13.18 that was the average in early 2021. The Monitor has visited about 1/3 of the provider organizations (all will be visited prior to July). The impact of the transformation funds has begun to be felt. Several “community connector” positions have been created to facilitate increased presence of individuals with IDD in the community. Some providers have used these funds to invest in professional development initiatives. Others have used bonuses and other strategies to stabilize existing workforce. Thus, the **State is in substantial compliance in the areas of wages, rate review and transformation funds.** Progress re: the workforce infrastructure initiatives is very mixed. The intent of the October, 2021 Action and the May, 2022 Court Order was to address both short term staff needs through intense recruitment and to create a long term infrastructure. These initiatives were **exceptionally slow in starting.** Even after a vendor contract was awarded in July, 2022, it has taken eight plus months (eighteen months since the Court-ordered Action Plan) to reach stakeholder consensus and develop a meaningful plan. Interventions from the Sherlock Center and the University of Minnesota helped achieve this consensus and plan. Also, DSP competencies have been adopted – professional development pertinent to these competencies is being developed. Progress toward **compliance re: long term workforce infrastructure is now satisfactory** but needs to be implemented. There have been several traditional recruitment efforts (i.e., job fairs and similar) intended to address the immediate recruitment needs. However, the **short term recruitment efforts are below the Court’s expectations.**

Focus 5 – Increasing Transition Outcomes

(a) **Summary of Expectations and Requirements** – The Court’s approach to transition focuses on five strategies:

- Revising the focus of the Career Development Plan so that it guides the youth from discovery to targeted work trials in areas of interest to actual job development to arranged adult supports before school exit.
- Increasing the number of youth who are employed before school exit.
- Increasing the focus on developing community connections so that each student has three or four active community connections before school exit.
- Ensure that each family has a consistent person (including another family) to go to for information and advice.
- Provide fiscal (and other) supports to all individuals found eligible for DD services to secure employment and community connections.
- Increase access to a Career and Technical Education programs for discovery and job development.

(b) Current Status – Attachments 4 and 5 provide substantial detail re: the State’s current status and the State’s efforts to improve transition outcomes.

- A draft of the revised Career Development Plan has been reviewed by the Monitor – the revised CDP aligns with the Court’s intent. Using the current CDP, RIDE has documented that 100% of transition youth have CDPs. Ride selected a random sample of transition youth – 85% of these students have has at least one long term vocational placement. The Monitor finished visits to all public high schools this year and affirms that all transition youth are in compliance with the requirements for CDPs and placements.
- The State “Transition Team” has met with the Monitor to discuss options for supporting families and providing information in a way that does not overwhelm families. A plan will be given to the Monitor for review later this Spring.
- Office of Rehabilitation Services (ORS) has increased fees for pre-ETS services.
- All three state agencies (RIDE, BHDDH, ORS) have provided an array of trainings to transition personnel toward the actions and goals of the Court.

(c) Monitor’s Assessment – The State is in **substantial compliance with the stated requirements of the Consent Decree and has made substantial progress toward refocusing transition activities to align with the strategies listed above.** The State will implement the revised CDP in the next school year and will collect data on the number of transition youth who are employed prior to school exit.

(d) Recommendation - The Monitor expects to see a detailed plan re: how fiscal and other supports will be provided to any/all youth found eligible DD services and supports. Said plan should include (a) documentation that there is at least one ORS vendor directly assigned to each school district and (b) documentation that any/all transition youth found eligible for DD services will also be eligible for the employment and community supports (and other supports such as family training). The Monitor also recommends that the State

develop a policy that transition youth eligible for DD services can participate in both school transition services and DD/ORS employment services at the same time.

Focus 6 – Increasing Effective Communication and Training

- (a) Summary of Expectations and Requirements** – Communication to all Consent Decree related populations and stakeholder groups has been inconsistent. The State is expected to develop a comprehensive communication plan that (a) identifies all populations and stakeholder groups, (b) the information needed by each, (c) the most efficient method(s) for reaching each population, (d) the schedule for all communication needs identified and (e) specific responsibility for each/every needed communication. Additionally, to supplement this communication plan, the State is required to:
- Develop specific strategies for communicating with individuals who self-direct;
 - Provide targeted outreach to individuals in segregated adult day centers to ensure they understand their options and the resources and supports available to them;
 - Develop and implement a training for caseworkers and other state staff who communicate with DD populations and stakeholder groups to ensure consistency of information;
 - Continue providing professional development and training re: the topics and effective practices that are related to the Consent Decree.
- (b) Current Status** – The State has outlined the components of a communication plan (Attachment 6). Many of the specifics have yet to be developed and implemented. The State disseminates a biweekly newsletter and holds quarterly public sessions – both are effective components of a comprehension. A curriculum for caseworkers and other personnel is being drafted. The State and its private partners offer an array of professional development opportunities including (a) an approach to employer outreach hosted by the RI Cross Disability Coalition, (b) the Person-Centered Thinking Facilitator Training offered through the Conversion Institute, (c) Supported Meaningful Employment offered through the Conversion Institute, (d) several transition and employment sessions hosted by the regional transition centers and (e) other topical training offered through BHDDH, ORS, DLT and RIDE. Also, the stakeholder group on Conflict Free Case Management is developing a training curriculum for potential vendors and CFCM managers. The State has also selected the RI Parent Information Network (RIPIN) to provide information and support to individuals who self-direct, as ordered in the Action Plan.
- (c) Monitor's Assessment** – Communication continues to be a significant need for the DD System. Although there has been activity in this area, communication needs to be a priority. Given the systems changes arising from the new rate structure, CFCM and other factors, priority should be given to developing materials (in any/all media) explaining the changes and the impact on increased personal control over services and supports.

(d) Recommendation:

- Develop a comprehensive calendar of professional development activities. Post this calendar on BHDDH, ORS, RIDE, DLT and all community partner websites and all Fiscal Intermediary websites to facilitate awareness and to reach broader audiences.
- Given that the RIPIN project to provide information to individuals who self-direct has not yet begun, that project should be extended for at least two years. The Monitor expects to review the scope of work to ensure that it meets the intent of the Action Plan.
- The second self-direct item in the Action Plan to create a backup workforce should be reactivated. The State should either reissue the RFP or develop an alternative plan through the Fiscal Intermediaries.
- Prioritize the development and dissemination of materials (in plain language) that describe the systems changes and impacts to **ALL** individuals (agency-supported and self-direct) prior to implementation on July 1, 2023.
- Implement the communication plan outlined in Attachment 6.

Focus 7 – Sufficient Funding

- (a) Summary of Expectations and Requirements** – The court-ordered wage increases and rate review (discussed earlier) are the primary components of the funding requirements. Additionally, the State is ordered to provide clear direction and training re: braiding and sequencing funding and to identify other additional public and private funding sources that can supplement base IDD rates. The State is also ordered to identify (and/or develop) a sufficient number of transportation options and communicate information about transportation options and rates to all individuals, families and stakeholder organizations.
- (b) Current Status** – As discussed earlier, the executive summary of the rate review final report is attached to this report (Attachment 2). The State has developed materials explaining how braiding and sequencing of funding can be used to impact services and supports. Attachments 7 and 8 provide a “map” and the PowerPoint used at two public sessions in late March. The Monitor is aware that some discussion of additional funding sources have occurred, but need to be completed and disseminated to stakeholders. Materials recently disseminated by ORS include a list of potential sources of additional funding. Similarly, the Monitor is aware of discussions re: transportation options and rates – these also need to be completed and disseminated.
- (c) Monitor’s Assessment** – The Monitor anticipates that implementation of the new rate structure should have significant impact both on the system overall and on individual lives. As discussed earlier, progress towards substantial compliance has been

satisfactory. **Ultimate assessment of substantial compliance will be determined by the efficiency and breadth of implementation in the next fiscal year.**

Focus 8 – Increased Use of Technology

- (a) **Summary of Expectations and Requirements** – Use of technology as a support has been widely documented to be an effective strategy. The October, 2021 Action Plan ordered the creation of a \$2,000,000 technology fund. Parallel to the technology fund, the Court expects the State to provide training and technical assistance re: incorporating technology into person-centered plans and strategies for using technology as a support.
- (b) **Current Status** – To date, there have been four rounds of requests – round 1 received 265 requests, 259 were approved; round 2 received 240 requests, 229 were approved; round 3 received 182 requests, 174 were approved; round 4 142 requests were approved. Of the \$2,000,000, \$365,000 has been awarded. Several technology training sessions have occurred.
- (c) **Monitor’s Assessment – Progress towards compliance in the technology domain has been satisfactory.**
- (d) **Recommendations:**
- The State should continue receiving requests until the entire fund is expended – these should be outside core funding packages.
 - The State should continue to provide informational sessions for individuals and families and professional development for staff re: using technology as support.

Level 2 – Service Provision

As has been stated in several prior Monitor Reports, for the goals and benchmarks of the Consent Decree to be achieved there need to be both (a) systemic changes in funding, administrative procedures and workforce development and (b) changes in how services and supports are provided to adults with IDD. Assuming that all the administrative and systems changes discussed above are in place and implemented by July 1, 2023, **there needs to be intense focus and effort towards significantly increasing the number of people employed and the number of people engaged in community activities of their choice.**

Transition Services

During 2022 the Monitor visited 40 public high schools in every school district in the State. The Monitor's August, 2022 Report² summarizes the Monitor's observations and recommendations. Essentially, the State is in **substantial compliance with the Consent Decree in the area of transition services**. All transition youth had Career Development Plans (CDP). All had experienced a range of work-related experiences. All were spending time in the community – the amount of time varied greatly. The question raised by several administrators and transition staff was whether those plans and experiences were resulting in the Consent Decree outcomes of employment and increased community participation. As detailed earlier in this report (Focus Area 5), recommendations focused on six areas:

- Revising the focus of the Career Development Plan so that it guides the youth from discovery to targeted work trials in areas of interest to actual job development to arranged adult supports before school exit.
- Increasing the number of youth who are employed before school exit.
- Increasing the focus on developing community connections so that each student has three or four active community connections before school exit.
- Ensure that each family has a consistent person (including another family) to go to for information and advice.
- Provide fiscal (and other) supports to all individuals found eligible for DD services to secure employment and community connections.
- Increase access to Career and Technical Education programs for discovery and job development.

The State has embraced these recommendations and is actively planning to implement a revised career development plan format, a strategy for increasing information and support to families and various strategies for increasing fiscal and other supports to schools, transition youth and families. Attachments 4 and 5 summarize those plans. Given the school calendar, these

² Monitor's Report; August, 2022 – Court Filing Document 180, Filed August 29, 2022

revisions to transition practices are anticipated to be implemented during the 2023-2024 school year. The Monitor intends to make a second visit to high schools and also visits to Career and Technical Education (CTE) programs and private schools that serve transition youth with IDD during the 2023-2024 school year.

Adult Services and Supports

There have been four primary barriers to the transformation of services and supports to adults.

- First, underfunding through most of the 2010s resulted in a decrease in both the quality and quantity of services and supports. This is being addressed through the court-ordered wage increases, the recommendations coming from rate review and the inclusion of the IDD population in semi-annual caseload estimating. These were discussed in the previous section – Focus Areas 2,3,4,7.
- Second, the COVID pandemic. Although there are indicators that COVID is fading, the impact of COVID on the IDD system has been well documented. State data on COVID³ in IDD residential settings documents that COVID outbreaks have occurred in 235 of 291 residential sites (81%). 949 of 1216 individuals living in those residence (78%) have had COVID – 142 (12%) have been hospitalized. 1828 direct support staff in those residence have had COVID – 32 have been hospitalized. 17 individuals have died. Although there is no comparable data for adults in employment or other day services, there is significant anecdotal evidence from both families and providers that most in-person services and most community-based services simply stopped. COVID had a profound impact on the ability of providers and individuals who self-direct to employ and retain staff. In recent months several providers have reported that “things are better”. Family interviews (cited later in this report) also suggest an improvement. However, the overall system is still recovering and does not yet have the capacity that it had before COVID.
- Third, the workforce crisis has had profound impact on systems capacity. Low wages for direct support staff (\$13.18 in the beginning of 2021), nationally documented decreases in the populations from which staff are typically recruited, the increasing responsibilities placed on direct support staff, COVID and other factors have resulted in a workforce crisis and diminished systems capacity to provide services and supports. Focus Area 4 in the earlier section of this report discusses the status of the workforce, the Court’s expectations and the State’s efforts to address workforce issues.
- Fourth, although efforts are underway to transform services from a center-based model to a community-based model, there is still a primary reliance for many adults on a staff-centric service model that was developed in the 1970s, 1980s, 1990s.

³ DD Daily Residential COVID Count; March 22, 2023

The Consent Decree prescribes a clear set of outcomes for systems transformation – increased employment, increased community participation and transition services that effectively prepare youth for a community life based on employment, community participation and access to a broader array of community opportunities and resources. In the Monitor’s November, 2021 Report (following the court-ordered Action Plan) the monitor documented the need for three broad goals:

- Stabilizing and strengthening the provider system;
- Stabilizing and strengthening the supports available to individuals who self-direct;
- Developing a hybrid model for individuals who want to self-direct, but need more support.

Several provisions of the Action Plan were focused on these three goals. There were two RFPs directed towards individuals who self-direct – the first focused on providing information and support in areas such as employment; the second to develop a network of “backup” staff to meet short term needs. The first RFP has been awarded to RIPIN, but work has not fully begun. The second RFP has not been awarded due to no qualified applicants. The Monitor’s recommendations for these two items were discussed earlier. The December, 2022 Court Order also required extensive communication and outreach to those who self-direct. Efforts have begun, but need increased focus and implementation.

Several of the required systemic actions were targeted towards the network of provider organizations. The Transformation Grants (ordered in the Action Plan and further defined in the Monitor’s November, 2021 Report) were intended to stimulate new models of community service and the development of the hybrid model. The Monitor has begun to visit provider organizations (including the new organizations created with the transformation grants). About one-third of the organizations, the rest to be visited in the next few months. Based on the visits completed to date, the Monitor has three primary observations:

- The transformation grants have planted the seeds for several innovative practices. Two specific examples (not to exclude other projects) that are linked to Consent Decree activities – the RI Cross Disability Coalition and Skills for RI’s Future ((in partnership with ten other organizations) are implementing a project that (a) provides workforce development and support for adults interested in self-employment (there is a directory that lists 40+ businesses) and (b) provides team development based on a “roadmap” for engaging employers, as well as creating a peer and family education and empowerment network. Best Life of RI has begun to implement a support model very similar to the hybrid model defined by the Monitor and other nationally recognized models.
- Every provider organization visited to date has used the transformation funds to initiate new or expanded supports. Two examples (again, not to exclude other projects) – One provider has used transformation funds to plan for three cohorts (ten adults in each

cohort) intensely focused on job development. Several other providers have hired “community connectors” (with different titles) focused on developing and expanding community connections for individual adults.

- Every organization visited to date has identified professional development or organizational development needs that will assist them in increasing employment and community activity. These needs are VERY individualized and include such things as how to take an exemplary practice to scale, developing an organizational plan, building a culture of person-centeredness in staff and administrators, professional development in targeted areas and others.

As stated at the beginning of this section, assuming that all the administrative and systems changes discussed above are in place and implemented by July 1, 2023, there needs to be intense focus and prioritization of effort towards significantly increasing the number of people employed and the number of people engaged in community activities of their choice. Three very specific recommendations:

- The transformation grants are beginning to be implemented and beginning to have an impact. **These grants need to be continued.**
- There needs to be an **intense effort to increase the number of people employed and participating in community activities.** The efforts must be **collaborative** and include all State agencies and all stakeholders – provider organizations and individuals/families who self-direct. The summary section of this report provides additional detail.
- The rate recommendations do not include any specific funding targeted towards staff or organizational development. The rate recommendations embed training and other related practices into the algorithm for staff productivity. The Monitor strongly recommends that the State create a fund targeted toward organizational development and professional development for staff. This can be implemented through a multi-year grant process. This aligns with the Consent Decree requirements for Training (Section IX) and Outreach, Training and Support (Section X).⁴

These three recommendations overlap, but development and expansion of community-based models for employment and community participation need to be a primary focus for 2023-2024. **Such activities should NOT be subtracted from core individual budgets.** The Monitor requests that the State and all stakeholders develop a statewide plan for professional and organizational development.

⁴ Consent Decree; USA v. Rhode Island; Spril, 2014.

Level 3 – Benchmark Data

This section reports the most current data available to the Monitor. For several of the domains, the Monitor also provides comparison data collected in either October, 2021 or April, 2022.

(a) Supported Employment Placements⁵

	Census	10/21	10/22	Target
Youth Exit Population	411	286	289	431 (67%)
Sheltered Workshop Population	593	261	263	500 (53%)
Day Activities Population	1297	421	432	525 (82%)
Total	2301	968	984	1456 (68%)

Percentages reflect the percent of the target number that has had a placement.

(b) Point in Time Employment⁶

Consent Decree Population Only

	Youth Exit			Sheltered Workshop			Day Activities			Total 10/22
	10/21	10/22	%	10/21	10/22	%	10/21	10/22	%	
Total Respondents	275	273		1279	1202		579	561		2,036
Individual Employment	79	77	32%	71	62	(13%)	123	138	(13%)	277 (15%)
Self Employed	2	0	0%	2	4	(1%)	13	8	(1%)	12 (<1%)
Provider Paid Individual	2	3	<1%	9	10	(2%)	21	26	(1%)	39 (2%)

Percentages = percent of total respondents reporting participating in each type of employment

	Statewide All DD 10/22	Self-Direct Respondents Statewide 10/22	Self Direct Respondents Consent Decree Only
Individual Employment	484 (18%)	78 (23%)	39 (22%)
Self Employed	15 (<1%)	4 (<1%)	2 (<1%)
Provider Paid Individual	51 (2%)	2 (<1%)	2 (<1%)
Provider Paid Group	60 (2%)	0	0

Percentages = percent of total respondents reporting participating in each type of employment

Number of New Jobs in Past Year

Youth Exit Population	18
Sheltered Workshop Population	13
Day Activities Population	28

Percent of Provider Agencies Who Report >20%, 20-40%, <40% Employed in Individual Jobs

Less Than 20% Employed	24 provider agencies (75%)
20%-40% Employed	2 provider agencies (6%)
More than 40% Employed	6 provider agencies (19%)

⁵ State of Rhode Island Consent Decree Quarterly Report; December 31, 2022

⁶ Sherlock Employment and Day Activities Survey (Data Collected October, 2022); Report February, 2023, Comparisons are taken from Sherlock Surveys collected in October, 2021 and April, 2022.

Most Common Industries for Individual Jobs (10/22 Data)

Industry	Number	Percent of Total
Retail Trade	204	39.1%
Accommodation and Food Services	109	20.9%
Health and Social Services	70	13.4%
Educational Services	32	6.1%
Other Services	24	4.6%
Arts, Entertainment, Recreation	18	3.4%

(c) Average Hours Worked

Youth Exit Population	8 ⁷	12.07 ⁸
Sheltered Workshop Population	7	13.68
Day Activities Population	5	9.78

(d) Average Hourly Wage

Youth Exit Population	\$12.53 ⁹	\$13.64 ¹⁰
Sheltered Workshop Population	\$12.62	\$13.51
Day Activities Population	\$12.60	\$13.36

(e) Other Supported Employment Services¹¹

	Participants 10/21	Mean Hours 10/21	Participants 10/22	Mean Hours 10/22
Employed	228	---	233	---
Not Employed	170	---	111	---
Total	398	4.54	344	5.34

	Participants 10/21	Mean Hours 10/21	Participants 10/22	Mean Hours 10/22
Career Planning	86	1.07	58	.88
Education/Training	23	2.70	10	4.13
Job Search with Individual	36	1.16	37	1.21
Job Search For Individual	33	1.07	32	1.07

Number of Businesses (Employers) Contacted By or On Behalf of Individuals

Number of Individuals 10/21	Mean Number of Businesses 10/21	Mean Number of Individuals 10/22	Mean Number of Businesses 10/22
67	3.01	57	4.23

⁷ Op. Cit.; RI Quarterly Report⁸ Op. Cit.; Sherlock Report⁹ Op. Cit.; RI Quarterly Report¹⁰ Op. Cit.; Sherlock Report¹¹ Op. Cit.; Sherlock Report

(f) Integrated Community Activities¹²

Consent Decree Populations Only

	Participants 10/21 & 4/22*	Mean Hours 10/21	Participants 10/22	Mean Hours 10/22
All Community Activities	1631 (73.6%)	12.26	1482 (72.8%)	13.83
Arts and Leisure	1269	6.87	1351	7.32
Health and Fitness	802	3.20	797	3.63
Education and Training	161	2.93	165	3.12
Daily Living	808	5.12	809	5.31
Volunteer Activity	176	3.04	203	3.04
Other Activity			180	7.48

*All is 10/21 data; subcategories are 4/22 data

	Statewide All DD 10/22		Self-Direct Respondents Statewide 10/22		Self Direct Respondents Consent Decree Only	
	Number	Hours	Number	Hours	Number	Hours
All Community Activity	2140	14.08	224	16.52	109	17.51

Sites Where Community Activities Occur

	4/22	10/22
Virtual	3%	1%
Public Venue	71%	69%
School/Training Facility	<1%	1%
Senior Center/Facility	2%	3%
Member Based Organization	10%	12%
Business/Employer	14%	14%

Number of People with Individual

	10/21	10/22
Mostly On My Own	37%	37%
Mostly with 1 or 2 People	52%	50%
Mostly with 3 or More People	11%	13%

(g) Total Combined Hours – Individuals Who Report Individual Jobs and Participation in Integrated Community Activities¹³

	Consent Decree Population				Statewide DD	
	Number 4/22	Percent 4/22	Numbers 10/22	Percent 10/22	Numbers 10/22	Percent 10/22
0-10 Hours	52	---	50	---	95	---

¹² Op. Cit.; Sherlock Data

¹³ Op. Cit.; Sherlock Data

10-20 Hours	97	---	92	---	160	---
20-30 Hours	74	---	80	---	138	---
30+ Hours	33	---	41	---	69	---
Total	256	(12%)	263	(12%)	462	(15%)

Percentages reflect the percent of respondents who report **both** employment and community activity.

(h) Use of Technology (new question in 10/22)¹⁴

	Number	Percent of Respondents
Individual Owns Technology	1355	66%
Individual Does NOT Own Technology	681	34%
Uses Technology to Support Individual Employment	91	4%

(i) Reasons Why Individual Not Available for Services¹⁵

	Number 10/21	Percent 10/21	Number 10/22	Percent 10/22
Total Not Available for Service	312	(15%)*	239	12%*
Pandemic Related	---	---	62	26%
Systems Capacity Issue	---	---	48	20%
Temporarily Suspended	---	---	28	12%
Health Issues	---	---	25	11%

*Percent of Total Survey Respondents

Monitor's Summative Assessment of Benchmark Data

A review of the benchmark data (above) documents that, although the State is actively engaged in the systemic change strategies ordered by the Court, these actions have not yet impacted statewide outcomes or the daily lives of adults with IDD and their families.

- Supported Employment Placements are below Consent Decree benchmarks.
- Point-in-time Employment remains in the teens. The Youth Exit Population is slightly higher. Individuals who self-direct have a minimally higher employment rate than the overall Consent Decree population.
- 75% of provider organizations have employment rates of less than 20%.
- Less than 400 individuals participate in other employment services.
- Job search activities are limited.
- Participation in integrated community activities remains even. The self-directing respondents to the Sherlock Survey report spending three more hours weekly in community activity than the overall Consent Decree population.

¹⁴ Op. Cit.; Sherlock Data

¹⁵ Op. Cit.; Sherlock Data

- On a more positive note, there is definitely an increase in the acquisition and use of technology....and there are signs (e.g., less individuals not available for services) that the pandemic is beginning to lose its grip.

Collectively, the data documents that the State is **not meeting the quantitative benchmarks of the Consent Decree**. The system is in the “messy middle” of transformation. The fact that there are only fifteen months until the prescribed end of the Consent Decree is the reason why the **Court is intensely focused on ALL systemic changes be fully implemented by July 1, 2023** so that 2023-2024 can be committed to meeting the Consent Decree and Court benchmarks. If that is not true, there is minimal likelihood that the State will be in substantial compliance by July, 2024. The summary at the end of this report reiterates the Monitor’s statement of what needs to occur.

Level 4 – Changes in the Lives of Individuals

A randomly selected sample of individuals/families (stratified by age) were interviewed by two family members. Twenty-five interviews were conducted. Individuals/families were asked:

- If life was better than it was a year ago
- If they were employed
- The community activities in which they participated
- Achievements in the past year
- Challenges in the past year
- Knowledge and understanding of the Consent Decree
- If services/supports had increased/decreased in the past year.

These interviews were conducted at the end of 2022.

The two interviewers summarized what they learned as follows:

- Only about 30% knew about or had an understanding of the Consent Decree. This included family members who might have been supporting or answering for their loved one. This is not really surprising, given that BHDDH does not do direct communication with all individuals / families on a routine basis. Lots of younger folks new to BHDDH were not around in 2014, perhaps unaware that career development plans and work trials in HS school were part of Consent Decree.
- Half of those interviewed were involved with self-directed supports, 28% were using self-direction for all their supports - although some described going to programs that are not DDOs certified by BHDDH, like Generations, RISSA. (These sorts of places are increasingly being discussed on the SDS listserv -- Generations, Andrade Center, Living Well, etc. -- a lot like the old DD centers.) People are turning to them when they cannot find staff or just want a "center-like experience." One person interviewed said they were getting much more community activity through Generations than through their pre-COVID DDO. But stories out of the other "centers" are not good at all - very large staff to person ratio, pretty much "babysitting".
- Only 33% reported working for wages. Most of these are working only a minimal number of hours.
- A small majority (55%) said life was better than a year ago. Another 20% said things were "about the same".
- All but one engaged in community activity, but for some this only meant shopping or going out to eat with family. A majority (55%) say this was less than before the pandemic.
- There seemed to be a trend that those who lived with family had a bit more community activity in their lives. I interviewed one person (with significant physical challenges) and family who has had no DDD support since before COVID and only goes out for medical appointments. Also, interviewed one person in a group home who had quite an active

life. That person did say that staffing shortages have improved recently, but still impact ability to get out. Others in group homes cited staffing shortages as reasons for not getting out more. Staffing shortages were also the reason cited for those who wanted more agency day programming and were not getting it.

- People often mentioned how bad things had been during COVID, but that things have eased a bit since things are opening up. Some are still limited due to COVID concerns (risk of infection, not able to wear mask, etc.)
- 39% report receiving less support than before pandemic. One has not received any support, but plans are in place to return to limited agency day supports. Another reported that agency day supports (much reduced) were only offered in August 2022. Two years plus with no Day Supports
- Accomplishments - Some individual report accomplishments, but the interviewer was struck by how many cite just getting through COVID as the greatest accomplishment.
- Challenges - several cite wanting a job and not being able to access effective employment supports.
- One family has been disturbed at the lack of expertise / consultation for family and staff to support effective communication -- identify the best system for the person, then continue with follow-up for implementation. This is available for school aged folks, but not for adults. System needs to change this.

Collectively, the interviews document that the Consent Decree has not yet impacted the lives of most individuals in the Consent Decree populations.

Summary and Recommendations

Through several court orders and Monitor's Reports, the Court has attempted to provide clarity re: what is required to achieve substantial compliance. There are six keys to achieving the goals of the Consent Decree.

First, refocusing transition activities to increase the number/percent of youth who are employed and who have community connections PRIOR to school exit. The Monitor's visits to forty public high schools documented that quality transition activities are occurring in most high schools. The employment and community activity data for the Youth Exit Populations is more positive than the other Consent Decree populations. This documents the potential positive impact of school and transition. The critical impasse seems to be when youth are approaching school exit.

- There needs to be more ORS vendors directly linked to schools to increase job development and actual employment prior to school exit.
- There needs to be more BHDDH funding and services directed to youth found eligible for DD services.
- Youth need to be able to participate in school-based transition services, ORS employment services and pertinent BHDDH services (as long as they do not supplant each other) simultaneously – this is braiding.
- Families need to have consistent support and advice from knowledgeable sources to assist families in understanding and using all of these services and funding sources. If individuals/families choose to receive provider-based supports – providers should be incentivized to link with individuals earlier. If individuals/families choose to self-direct, information and support needs to be provided by knowledgeable trusted sources.
- Finally, state data need to document rates of employment and community connections prior to school exit. Increasing employment and community participation rates for exiting youth will increase the overall rates.

Second, the systems and funding recommendations from the Rate Review Final Report need to be fully implemented by July 1, 2023. Underfunding was one of the most significant reasons for the decline in quality of DD services in the early 2010s. The intent of the Court-ordered rate review was to address the gaps created by underfunding and provide a stable base for future growth. Thus, **ALL procedural and structural changes must be implemented by July 1, 2023. ALL individual budgets must be revised by July 1, 2023. Revised provider rates and billing procedures must be implemented by July 1, 2023.**

Third, the procedural changes intended to increase person-centered needs assessment, efficient development of individualized budgets, quality person-centered plans, ongoing assessment of life outcomes and individual control of resources and supports must be in place by July 1, 2023. The discussion of Conflict Free Case Management has caused some

confusion about the core requirements. The Monitor feels a significant need to clarify (without reference to the language of Conflict-Free Case Management).

In several previous reports, the Monitor identified seven **core programmatic issues**:

- (1) Many individuals/families do not have adequate information or stimuli to promote employment and active community lives.
- (2) Many individuals/families report that current procedures do not empower them to influence or direct the development of their budget allocations or plans.
- (3) Many individuals/families report that service allocations are not reflective of their needs. Others simply do not understand what is included in their service allocations. The broad use of the S-109 process is reflective of this and is inefficient.
- (4) Many Individualized Service Plans (ISP) have not qualitatively changed in years. In many plans references to employment and community participation are superficial.
- (5) Many ISPs are exclusively dependent on paid staff and do not access other community resources. Thus, workforce issues have become an overwhelming barrier to employment and community participation.
- (6) Some ISPs are not facilitated by individuals who are deeply knowledgeable of the community in which the person lives and other potential organizations, activities or resources.
- (7) Most plan monitoring focuses on measuring or listing activities rather than assessing changes in the actual lives of individuals.

To address these issues the Monitor has emphasized (including earlier in this report) the following core process.

Component	Issues Addressed
Using several sub-domains of the SIS-A (or the total score) to determine a base support package.	(3)
Using the SIS supplemental questions to add to the base package – support funds to address needs documented by the supplemental questions should be additional to the core supports package.	(3)
Referral to an independent facilitator.	(1) (2) (6)
Development of a comprehensive person-centered plan.	(2) (4) (5) (6)
Individual meetings with every individual (and family and core supports) to determine any additional funding or support needed to effectively implement the individual’s plan.	(3) (3)

Develop the individual budget and allocation. To repeat, the individual budget should have three amounts – the core supports package from the SIS-A, any additional amount documented by the SIS supplemental questions, any additional needed funds documented by the individual meeting. In plain language, explain complete budget, components and resources to individual/family.	(1) (3)
A monitoring process that assesses the actual impact of the individual plan and the budget on the individual's life.	(6) (7)

The Court's expectation is that this complete process be developed and implemented by July 1, 2023....and rolled out (on a defined schedule) so that ALL adults with IDD experience the new/refined process within one year of initial implementation. Some of the components are derived from rate review, some are derived from discussion about independent facilitation (aka, Conflict Free Case Management), some are derived from the training re: Person-Centered Thinking that has occurred for several years, some are derived from the transformation grants that are influencing workforce and service delivery. Whatever the source, collectively these components constitute an integrated process that will increase self-determination and control, person-centeredness, understanding and use of an increased array of opportunities and resources and quality plans. The ultimate outcome will be increased employment and community participation (as defined in the Consent Decree) and improved quality of life for adults with IDD.

There is also confusion about the Conflict-Free Case Management pilot. The Monitor recognizes the challenges in selecting and preparing vendors and case managers and in implementing other factors required by EOHHS and/or CMS; thus, the Monitor understands the need for a pilot to refine the developed process. However, **the need for a pilot does not eliminate the requirement to have the integrated process (as detailed above) ready to implement by July 1, 2023 and implemented with all adults within one year. The Monitor also expects that at least one vendor (not just a project manager) will be in place prior to July 1.**

Fourth, there needs to be an intense effort to increase the number of people employed and participating in community activities. The benchmark data documents the limited progress that has made on employment and community activity. The section on service provision documented the barriers and challenges. The efforts must be collaborative and include all State agencies and all stakeholders – provider organizations and individuals/families who self-direct.

- There needs to be a rebuilding of the employment teams that were decimated during the pandemic.

- There needs to be a significant increase in outreach to employers.
- The strategies stimulated by the transformation funds need to be taken to scale.
- There needs to be technical assistance and professional development to providers and to individuals/families who self-direct to (a) address the specific needs of each organization and (b) translate the rate review recommendations and funding into effective strategies and plans.
- The State needs to create a fund (separate from core budgets) and a grant process that facilitates organizational and staff development.

Fifth, communication to ALL individuals and families must be a priority.

- Individuals and families need to understand the positive life outcomes that can come through employment and community activity.
- Individuals and families need to understand the components of their individual budgets and how to use funds to create opportunities.
- Individuals and families need to become increasingly self-determined in developing meaningful person-centered plans, budgets and integrated systems of support.
- Individuals and families need to understand how every aspect of “the system” works, how administrative procedures have changed and how to access all/any available supports.

Sixth, attention needs to be paid to the measurement strategies that are being used to assess substantial compliance – (a) the Consent Decree benchmark data referenced above, specifically in the areas of employment and community activity and (b) whether or not a majority of individuals/families report increasingly positive changes and outcomes in their lives.

Final comment. Given the limited time remaining before July, 2024, the need for urgency must be reinforced. The various challenges listed in this report (and prior reports) have been based on (a) implementation of all systemic changes by July, 2023 and (b) intense focus on increasing employment and community participation in 2023-2024. **July, 2023 is three months away.**

Attachments

1. BHDDH Workplan to Address Key Components of Court Order
 2. Health Management Associate – Rate and Payment Options Final Report Executive Summary
 3. Conflict Free Case Management Pilot
 4. Transition Action Plan Status
 5. Transition Work Plan
 6. BHDDH Communications Plan
 7. Braiding and Sequencing Map
 8. Braiding and Sequencing Powerpoint
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