

**THE UNITED STATES DEPARTMENT OF JUSTICE
SETTLEMENT AGREEMENT WITH WEST VIRGINIA**

FACT SHEET

The Justice Department and the State of West Virginia have reached an agreement to address violations of the Americans with Disabilities Act (“ADA”), 42 U.S.C. § 12101 et seq., and its implementing regulations regarding the services West Virginia provides to children with mental illness. Key provisions include:

IDENTIFY AND SCREEN MEMBERS OF THE TARGET POPULATION:

- The parties have agreed to a target population who qualifies for the services under the agreement. The target population includes all children under the age of 21 who:
 - Have a serious emotional or behavioral disorder or disturbance that results in a functional impairment, and
 - are placed in a Residential Mental Health Treatment Facility, or
 - reasonably may be expected to be placed in a Residential Mental Health Treatment Facility in the near future; and
 - Meet the eligibility requirements for mental health services provided or paid for by the Department of Health and Human Resources.
- The State must screen children within the target population to determine if they should be referred for further mental health evaluation or services. If the screening indicates a need for further evaluation or services, the State must provide an intake and assessment process to identify the child’s need for in-home and community-based services.

DEVELOP AND EXPAND IN-HOME AND COMMUNITY-BASED MENTAL HEALTH SERVICES:

- The State must ensure that every child who is determined appropriate for community-based services receives timely access to these services in a convenient location and in the intensity and duration that they need them.
- The State must expand and develop community-based services so that children throughout the State have access to treatment. These services include: wraparound facilitation, behavioral support services, family support and training services, in-home therapy, children’s mobile crisis response, therapeutic foster care, and Assertive Community Treatment.
- All in-home and community-based mental health services must be available statewide by October 1, 2020.

END THE UNNECESSARY USE OF RESIDENTIAL MENTAL HEALTH TREATMENT FACILITIES:

- West Virginia must eliminate the unnecessary use of residential mental health treatment facilities.
- By the end of 2024, a qualified professional must have assessed all children living in a facility and determined that this setting is the most appropriate setting for each individual child.

CREATE A QUALITY ASSURANCE AND PERFORMANCE IMPROVEMENT SYSTEM:

The State must develop a Quality Assurance and Performance Improvement system. This system will allow the State to assess the quality of its mental health services and timely address gaps in services across the state.

DEVELOP AN IMPLEMENTATION PLAN

- The State must develop an implementation plan to explain the steps it will take to create mental health services that are sustainable, statewide, and available to children in the target population. The State must invite and consider public comment on its implementation plan.

HIRE A SUBJECT MATTER EXPERT:

- The State must hire a subject matter expert to provide technical assistance and recommendations for attaining compliance with the agreement.
- The subject matter expert will prepare a comprehensive report on the status of the State's compliance with the agreement twice a year, which will be posted publicly.

ENFORCEMENT AND TERMINATION:

- If the State fails to comply with the provisions in the agreement, the Parties agree to engage in good faith discussions to resolve the breach within 60 days.
- If the Parties are unable to reach a resolution, the United States may file a lawsuit for breach of this agreement, or any provision of the agreement.
- The agreement will terminate on December 31, 2024 if the State has reached substantial compliance with all substantive provisions and maintains compliance for one year.
- The agreement allows West Virginia to seek early termination of the entire agreement or particular substantive provisions if it has maintained substantial compliance for at least a year.