

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND**

UNITED STATES OF AMERICA

Plaintiff,

v.

STATE OF RHODE ISLAND

Defendant.

Civil Action No. 24-CV-00531

COMPLAINT

1. The United States of America (the “United States”) brings this action to enforce the rights of children and young adults up to the age of 21 (“children”) with behavioral health disabilities in the care and custody of Rhode Island Department of Children, Youth and Families (“DCYF”) to receive services in the most integrated setting appropriate to their needs. The State of Rhode Island (the “State”) administers and funds its programs and services for these children in a manner that results in their unnecessarily extended hospitalizations at Emma Pendleton Bradley Hospital (“Bradley Hospital”), an acute psychiatric hospital, and places them at serious risk of hospitalization there, in violation of Title II of the Americans with Disabilities Act of 1990 (the “ADA”), 42 U.S.C. § 12132, and its implementing regulations, and Section 504 of the Rehabilitation Act of 1973 (“Section 504”), 29 U.S.C. § 794.

2. Community-based behavioral health services that would enable the children stuck at Bradley Hospital to live in a family home exist within the State’s

publicly funded behavioral health service system. The State could reasonably modify its policies, practices, and services to expand access to these services to prevent and remedy unnecessary psychiatric hospitalization of children in DCYF care and custody, but has failed to do so.

JURISDICTION AND VENUE

3. This Court has jurisdiction over this action under 28 U.S.C. §§ 1331 and 1345, because it involves claims arising under federal law. 42 U.S.C. § 12133, 29 U.S.C. § 794. The Court may grant the relief sought in this action pursuant to 28 U.S.C. §§ 2201-02; 28 C.F.R. §§ 35.170-174, 190(e).

4. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b)(2) because a substantial part of the acts and omissions giving rise to this action occurred in the District of Rhode Island.

PARTIES

5. Plaintiff is the United States of America.

6. Defendant, the State of Rhode Island, is a public entity within the meaning of the ADA, 42 U.S.C. § 12131(1), and is therefore subject to Title II of the ADA, 42 U.S.C. §§ 12131-34, and its implementing regulation, 28 C.F.R. pt. 35.

7. The State of Rhode Island operates programs, services, and activities receiving federal funds, and is therefore subject to the requirements of Section 504. 29 U.S.C. § 794.

8. The State administers and funds a system of services for children with behavioral health disabilities through various agencies and departments, and services are offered in both community-based settings and in segregated settings.

9. DCYF is the state agency responsible for the delivery of appropriate mental health services to children with behavioral health disabilities and children with functional developmental disabilities. *See* R.I.G.L. § 42-72-5(b)(24). Mental health services may include treatment in a community-based setting, placement in a residential treatment facility, or, when acute short-term stabilization services are needed, hospitalization. *Id.*

10. The Rhode Island Executive Office of Health and Human Services (“EOHHS”) is responsible for managing DCYF, as well as the Department of Health (“DOH”), the Department of Human Services (“DHS”), and the Department of Behavioral Healthcare, Developmental Disabilities & Hospitals (“BHDDH”). *See* R.I.G.L. § 42-7.2-2. EOHHS is also the single state agency responsible for administering Rhode Island’s Medicaid program, the State’s largest funding source for children’s behavioral health services, under Title XIX of the Social Security Act (the “Medicaid Act”).

FACTUAL ALLEGATIONS

A. Children with Behavioral Health Disabilities Are People with Disabilities Protected by the ADA and Section 504.

11. Children with behavioral health disabilities who are in the care and custody of DCYF and who are hospitalized or at serious risk of hospitalization at Bradley Hospital have serious emotional disturbance, mental illness, and/or substance use

disorders. These are impairments that substantially limit one or more major life activity. Accordingly, these children are people with disabilities defined by the ADA and Section 504.

12. The vast majority of children with behavioral health disabilities in the care and custody of DCYF are appropriate for and qualified to receive services in the community. The vast majority of those at Bradley Hospital have been deemed ready for discharge to a more integrated setting by their treatment team. These children have similar diagnoses and needs as children who live successfully at home, or in therapeutic foster care homes, and who receive community-based supports and services.

B. Bradley Hospital Is a Segregated, Institutional Setting.

13. Bradley Hospital is a private, acute psychiatric hospital located in East Providence, Rhode Island, that serves children and adolescents with serious behavioral needs who need short-term stabilization, assessment, and treatment for suicidal, aggressive, self-injurious or other similar behaviors. Bradley Hospital admissions are focused on providing short-term stabilization services designed to last one to two weeks.

14. Psychiatric hospitals are quintessential congregate, segregated settings. Children receiving psychiatric treatment at Bradley Hospital typically do not interact with people other than patients and treatment staff, and their day-to-day life is highly restricted.

C. Community-Based Services Are Appropriate and Unopposed for the Overwhelming Majority of Children in DCYF Care and Custody who Are Hospitalized at Bradley.

15. DCYF is responsible for coordinating discharges of children in its care and custody from Bradley Hospital to placements with appropriate services in homes and communities.

16. Critical community-based services to keep children in their homes and communities include mobile crisis and stabilization services, intensive care coordination, therapeutic foster care, and intensive in-home services.

17. Children and their families do not oppose community-based services and would prefer to receive community-based services in a home or community setting rather than receive services in a psychiatric hospital.

18. DCYF's own data reveals that the vast majority of children in its care and custody at Bradley have been deemed medically ready for discharge, but remain hospitalized at Bradley awaiting post-discharge services.

19. While hospitalized, children remain away from their families, school, and communities. Many children in DCYF's care and custody remain hospitalized for months and, in some cases, for over a year.

20. Children at Bradley in DCYF care and custody stay hospitalized for extended lengths of time, not because of medical necessity, but because of DCYF's failure to secure appropriate services to allow children to safely live with their family or in another community setting.

21. Extended and unnecessary hospitalizations are traumatic for children, as well as for their families.

22. These children then often experience repeated and unnecessary hospitalization because the ongoing supports that children and families need to avoid re-admission are not available when children are discharged from Bradley Hospital.

D. Rhode Island Could Make Reasonable Modifications to Provide Services to Children in a Family Home Setting, and to Minimize the Frequency and Length of Hospitalizations.

23. The State can make reasonable modifications to its community-based service systems to provide services to children with behavioral health disabilities who are hospitalized at Bradley Hospital, or at serious risk of entering Bradley Hospital, in their homes and communities instead.

24. The types of services needed to support children with behavioral health disabilities in community-based settings already exist in Rhode Island's community-based service system.

25. Under the Early and Periodic Screening, Diagnostic, and Treatment ("EPSDT") provisions of the Medicaid Act, Rhode Island's Medicaid program is required to provide children under the age of 21 with any service necessary to correct or ameliorate a mental illness or condition, including in-home and community-based behavioral health treatment.

26. The State, through its Medicaid program, as well as through contracts funded by DCYF, administers community-based services, including mobile crisis and stabilization services, intensive care coordination, therapeutic foster care, and intensive in-home and community-based behavioral support services.

27. Although community-based services are offered by the State, the demand for these services greatly exceeds the current supply. Even when the services

are available, they are not available in the amount, intensity, or duration sufficient to meet children's needs.

28. The State has long known about the need for critical community-based services to prevent unnecessary hospitalizations.

29. Nonetheless, children in DCYF care and custody continue to be unnecessarily admitted to Bradley Hospital for treatment, hospitalized for far longer than necessary, and not provided with discharge planning services to ensure their prompt transition to a less segregated setting with community-based services. When they do return home or to community-based settings, these children face the same lack of services that resulted in the initial hospitalization.

30. Rhode Island can reasonably modify its community-based behavioral health services for children by increasing access to those services for the children who need them and by ensuring they are available in sufficient intensity to prevent unnecessary hospitalization.

31. Rhode Island can reasonably modify its community-based service system by ensuring that the full array of services is available statewide as required by Medicaid. This array of services includes mobile crisis response and stabilization services, intensive care coordination, and intensive in-home services, such as wrap-around facilitation, respite care, individual therapy, family therapy, behavioral support services, family peer support, and youth peer support.

32. Rhode Island can reasonably modify the services offered by DCYF by ensuring that there is a sufficient provider network of therapeutic foster care homes

and other DCYF-funded services, such as intensive care coordination, to allow children to be served in the most integrated setting and to prevent unnecessary hospitalizations.

33. Rhode Island can reasonably modify its service system by assessing children at serious risk of psychiatric hospitalization and quickly connecting them to appropriate crisis and stabilization services and other community-based services.

34. Rhode Island can reasonably modify its service system by working with children in DCYF care and custody and their families when a child becomes admitted to Bradley Hospital to facilitate discharge and transition back to the community and by verifying whether those children are receiving access to necessary community-based services after they are discharged.

E. The Investigation by the Department of Justice and Health and Human Services.

35. The U.S. Department of Health and Human Services (“HHS”) initiated an investigation in late 2021 upon receiving complaints regarding excessive lengths of stay for children in DCYF care and custody who were admitted to Bradley Hospital. The U.S. Department of Justice joined HHS’ investigation in July 2022. Following this investigation, the United States notified the Governor and Director of DCYF of its conclusion that the State fails to provide services to children with behavioral health disabilities in the care and custody of DCYF in the most integrated setting appropriate to their needs, as required by the ADA and Section 504. Attachment A, Letter of Findings (May 13, 2024). The attached Letter of Findings, and the factual allegations made therein, are incorporated into this Complaint by reference.

36. The Letter of Findings provided the State notice of its failure to comply with the ADA and Section 504 and identified the steps necessary for the State to meet its obligations pursuant to federal law.

37. All conditions precedent to the filing of this Complaint have been satisfied.

FIRST CAUSE OF ACTION
Violation of Title II of the Americans with Disabilities Act of 1990,
42 U.S.C. §§ 12131-12134

38. The allegations of Paragraphs 1 through 37 of this Complaint are hereby re-alleged and incorporated by reference.

39. Defendant, State of Rhode Island, is a public entity subject to Title II of the ADA, 42 U.S.C. § 12131(1).

40. As described above, the State violates the ADA by administering the State's children's behavioral health service system in a manner that fails to ensure that such children receive services in the most integrated setting appropriate to their needs. 42 U.S.C. §12132; 28 C.F.R. pt. 35.130.

41. The State's actions constitute discrimination in violation of Title II of the ADA, 42 U.S.C. §12131 *et seq.*, and its implementing regulations at 28 C.F.R. pt. 35.

SECOND CAUSE OF ACTION
Violation of Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. §794

42. The allegations of Paragraphs 1 through 41 of this Complaint are hereby re-alleged and incorporated by reference.

43. Defendant, State of Rhode Island, is a covered entity for purposes of Section 504 because it operates a program or activity receiving federal funds.

44. As described above, the State violates Section 504 by administering the State's children's behavioral health service system in a manner that fails to ensure that such children receive services in the most integrated setting appropriate to their needs. 29 U.S.C. § 794.

PRAYER FOR RELIEF

The United States of America prays that the Court:

- A. Grant judgment in favor of the United States on its Complaint and declare that the Defendant has violated Title II of the ADA, 42 U.S.C. § 12131-12134, and Section 504, 29 U.S.C. § 794;
- B. Enjoin Defendant from:
 1. Discriminating against children with behavioral health disabilities in DCYF's care and custody by failing to provide services, programs, or activities in the most integrated setting appropriate to their needs; and
 2. Failing to provide appropriate, integrated community services, programs, or activities to children with behavioral health disabilities in DCYF's care and custody so children are placed at serious risk of psychiatric hospitalization; and
- C. Order such other appropriate relief as the interests of justice may require.

Respectfully submitted this 19th day of December, 2024.

FOR THE UNITED STATES OF AMERICA:

ZACHARY A. CUNHA
United States Attorney
District of Rhode Island

/s/ Amy R. Romero
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CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

United States of America

(b) County of Residence of First Listed Plaintiff

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Amy R. Romero, U.S. Attorney's Office, One Financial Plaza, 17th Floor, Providence, RI 02903, 401-709-5010

DEFENDANTS

State of Rhode Island

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

James J. Arguin, Jeff Kidd, Rhode Island Attorney General's Office, 150 South Main Street, Providence, RI 02903, 401-274-4400

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship: Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation.

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

Large table with categories: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, TORTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from Another District (specify)
6 Multidistrict Litigation - Transfer
8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 42 U.S.C. 12131-34, 29 U.S.C. 794

Brief description of cause: Olmstead requirements under Americans with Disabilities Act and Section 504 of the Rehabilitation Act

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE DOCKET NUMBER

DATE 12/19/2024 SIGNATURE OF ATTORNEY OF RECORD /s/ Amy R. Romero

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket. **PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.