



DOJ: The Final Push

Virginia Network of Private Providers, Inc
2019 Fall Conference

October 17, 2019



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Overview

- Court order on 3/12/19 established the basis for negotiations between the parties “to establish in precise, measurable terms what the Commonwealth must do to comply with each remaining provision of the decree”.
 - For example, what does “adequate training” mean, how many trained responders must there be, what should the “meaningful target” be for employment, etc. The Court cites numerous terms like these throughout the settlement agreement.
- The Court intends to use the “outcome indicators or measures” as the measuring stick to determine if the Commonwealth has met its duties.
- The agreement is scheduled to conclude on June 30, 2021 unless the Commonwealth has not complied with the terms of the agreement.



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The Process

- DOJ and VA exchange proposals for outcome measures that must be met to achieve each individual provision that remains.
- DOJ and VA engaging in repeated in-person and phone negotiations, both have retained experts to assist in the negotiations.
- Started with 54 provisions considered to still be in non-compliance. Agreed that 6 could be rolled into other provisions. So, establishing outcome measures for 48 provisions in total.



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Current Status

- Finished 14 completely so far. Agreed to 80-90% of the measures for the remainder.
- If the parties don't come to full agreement the Court will decide following a January 2020 hearing.
- Already have agreed to over 225 outcome measures! Many also have sub-indicators. Individual and process performance outcomes. Examples:
 - 86% of individuals with a DD waiver and known to the REACH system who are admitted to CTH facilities and psychiatric hospitals will have a community residence identified within 30 days of admission.
 - 86% of all CAPs are completed on time.



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Remaining Provisions to Achieve Compliance

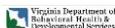
- Section III:
 - IFSP Program including Family to Family and Peer to Peer programs
 - Case Management
 - Crisis Services
 - Regional Support Teams
 - Individualized Day and Employment
 - Most Integrated Services
 - Transportation



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Section III Challenges

- Improve capacity and competency of providers to serve people with behavioral support needs.
- Increase number of providers across COVA providing the most integrated service options.
 - Increase numbers of people receiving most integrated service options including those with complex support needs (day and residential).
- Increase access to in-home support and nursing especially for children to avoid admission to ICFs.
- Increase crisis response, stabilization, step-down to avoid hospitalization and ensure timely discharge.
- Implement IFSP State Plan.



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Strategies

- Mobile crisis expansion.
- Additional children's Crisis homes and development of other options as needed.
- Retain technical assistance to improve behavior support capacity across COVA. Increase # of BS professionals working in system.
- Improve coordination between MCO's and waiver services and care coordination.
- Identify and solve barriers limiting expansion of most integrated day and residential supports.
- Support rate models that address workforce challenges.
- Obtain more support to implement IFSP



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Compliance Indicators

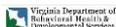
- Process indicators:
 - 86% of all referrals to RST are made according to written requirements
- Input indicators:
 - 86% of all people receive 86% of authorized units of service
- Outcome indicators
 - 25% of all adults are employed



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Remaining Provisions (continued)

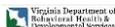
- Section V: Quality Management System
 - Overarching System
 - Risk Management: DBHDS and Providers
 - Incident Management: Reporting, investigations and CAPs
 - Assessing adequacy of individual services and supports
 - Mortality Review
 - Provider Quality Improvement
 - HCBS Quality Management
 - Quality Service Review
 - Data availability, use and validity
 - Quality Improvement
 - Regional Quality Councils
 - Staff competency-based training
 - Public Reporting



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Quality System Expectations in DD Services

- The Settlement Agreement basically describes what every state HCBS DD system has been expected to implement for a number of years (exception is QSR).
- VA has been slow to appreciate the requirements and is limited by reliance on licensing and regulations as the primary mechanism to implement a comprehensive quality management system.
- DOJ negotiations have provided clear detail of what needs to be done.
- Challenge will be balancing reality that DBHDS needs to ensure high levels of compliance with quality requirements against an equal need to create a culture of quality improvement.



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Quality / Risk Management

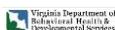
- The Settlement Agreement requires DBHDS to increase monitoring and oversight of community-based providers to ensure the quality and safety of services.
- Settlement Agreement has 33 provisions related to Quality and Risk Management and Quality Improvement
 - The Commonwealth has demonstrated compliance with 9 provisions
 - Remaining items include provisions that address:
 - State level quality management system
 - Provider level quality/risk management and quality improvement
 - Identification and prevention of serious incidents
 - Follow-up on corrective action plans



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Quality / Risk Management – Quality Assurance

- At the provider level, the Office of Licensing and Office of Human Rights are responsible for ensuring many of the quality and risk management requirements of the Settlement Agreement
- Licensing & Human Rights serve a quality assurance function
 - Monitoring and assessing services to assure that they are meeting a pre-defined standard
 - Focuses on detection and correction of processes that do not meet standards



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Risk Management Provisions

- *The Commonwealth shall require providers to implement risk management processes, including establishment of uniform risk triggers and thresholds that enable them to adequately address harms and risks of harm (V.C.1).*
- *The Commonwealth implements a process to investigate reports of suspected abuse, neglect, critical incidents, and deaths and identify remediation steps taken ... and shall verify implementation of corrective action plans (V.C.3).*
- *If providers fail to report harms and implement corrective actions, the Commonwealth shall take appropriate action (V.C.6).*
- *The Commonwealth shall offer guidance and training to providers on proactively identifying and addressing risks of harm (V.C.4).*



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Risk Management – Recent Actions

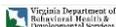
- Emergency licensing regulations (effective 9/2018) strengthened requirements for provider risk management programs and incident reporting.
- Updates to CHRIS to align with new requirements and improve data validity.
- Re-organizing Office of Licensing and increasing resources to monitor and respond to serious incidents; and to conduct investigations.
- Published guidance and training on quality improvement programs and serious incident reporting.
- Clarified reporting requirements following a death (for mortality review).
- Provided training on new reporting requirements and using new CHRIS interface.



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Risk Management - Indicators

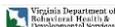
- DBHDS develops an incident management process that identifies serious incidents and seeks to mitigate or prevent future risks of harm
 - Triage and follow-up on individual incidents
 - Trend incidents by individual, provider, provider type and incident types
 - Identify opportunities for improvement and initiate improvement activities
- Providers develop and implement risk management program
 - Identification of a person responsible for risk management
 - Implement a written plan to identify, monitor, reduce, and minimize risks of harm
 - Conduct annual systemic risk reviews
- DBHDS identifies or develops additional training and guidance related to risk management, including:
 - Proactively identifying risks of harm
 - Conducting root cause analysis
 - Developing and monitoring corrective actions
 - Implementing risk triggers & thresholds



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Risk Management- Indicators (2)

- Reporting serious incidents <24 hours.
- Providers conduct a quarterly review of level I serious incidents.
- Providers conduct root cause analysis of level II and level III serious incidents.
- DBHDS identifies providers that have not reported serious incidents, or allegations of abuse/neglect, or have reported late.
- DBHDS requires corrective action when serious incident requirements are not met.
- DBHDS follows up on corrective action plans to ensure that they have been implemented:
 - On-site or desk review
 - DBHDS takes action against providers that fail to submit or effectively implement corrective action plans
- Providers that have recurring problems with reporting incidents, or implementing corrective action will be subject to further enforcement action.



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Risk Management-Indicators (3)

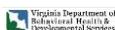
- At least 86% of providers have been assessed for compliance with risk management requirements, will include:
 - Whether providers use data at the level of the individual and the provider, including serious incident data, to identify trends and risks of harm
 - Whether providers assess year over year trends to assess the effectiveness of risk management plans
- At least 86% of providers are meeting risk management requirements or have developed a corrective action plan to do so.
- As a best practice, providers develop an incident management committee, or other structured process for reviewing serious incidents and allegations of abuse and neglect.
- Providers incorporate risk assessments and utilize risk triggers and thresholds to prevent or mitigate risk to individuals.



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Provider Quality Improvement Programs

- *The Commonwealth shall require all providers to develop and implement a quality improvement program, including root cause analysis, that is sufficient to identify and address significant service issues.*
- *The Commonwealth shall develop measures that providers are required to report on a regular basis, that capture information regarding both positive and negative outcomes for health and safety and community integration.*



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Provider Quality Improvement Programs – Recent Actions

- Emergency licensing regulations added requirements for provider QI programs:
 - Includes a quality improvement plan – reviewed & updated annually
 - Establishes measureable goals & objectives
 - Reports on statewide performance measures, as required by DBHDS
 - Utilizes standard QI tools, including root cause analysis
 - Implements a process to evaluate progress toward meeting goals
 - Incorporates corrective action plans
- Compliance assessed during annual inspections.



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Provider Quality Improvement Indicators

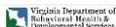
- At least 86% of providers are assessed for compliance with quality improvement requirements at least annually.
- At least 86% of providers have met these requirements or have developed a corrective action plan to come into compliance.
- DBHDS will develop measures that all providers are required to report through critical incident reporting, or through their quality improvement programs. Measures shall include:
 - Positive and negative aspects of health and safety and community integration
- Negative aspects of health and safety are reported through CHRIS.
- DBHDS developing measures for providers to report on positive aspects of health and safety and positive and negative aspects of community integration.



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Quality Improvement

- DBHDS will need to collect additional data regarding personal outcomes, and DBHDS and provider performance to align with the 8 domains outlined in the Settlement Agreement.
- DBHDS will need to improve data analysis and interpretation capabilities to initiate remediation when needed, and quality improvement strategies.
- DBHDS will be purchasing resources to assist providers with learning QI strategies and tools.
- DBHDS will continue to develop resources in response to challenges identified through QI committees like Mortality Review Committee or Risk Management Committee.



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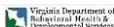
Adequacy of Individualized Supports and Services

The licensure process assesses the adequacy of individualized supports and services in each of the eight domains:

- | | |
|--|---|
| <ul style="list-style-type: none"> • Safety and freedom from harm • Physical, mental, behavioral health and well-being • Avoiding crises • Stability | <ul style="list-style-type: none"> • Choice and self-determination • Community inclusion • Access to services • Provider capacity |
|--|---|

The Office of Licensing will begin assessing providers and case managers in these areas during annual licensing inspections

- Does the ISP identify needs, strengths, abilities, preferences, and risks?
- Does the ISP have a safety plan that addresses identified risks?
- Is there documentation that the individual is accessing community supports consistent with their goals?



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Quality Service Reviews

- RFP out now with several National QIOs showing interest.
- Changed to conduct reviews provider agency by provider agency, at least once every 2-3 years.
- Will evaluate for the agency:
 - HCBS Settings compliance
 - Provider Risk Management and Quality Improvement implementation
- Person-Centered Reviews:
 - Selecting individuals from every service the agency offers
 - Critical data source for evidence that individuals are receiving services as expected



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General Needs to Support Quality Management

- | | |
|---|---|
| <ul style="list-style-type: none"> • Build strategies and data collection to know if people are getting what they should/need • Give information to individuals and families about provider performance to inform choice • Improve the quality of the service to improve personal outcomes • Improve data and information management capabilities to analyze and report | <ul style="list-style-type: none"> • Improve communication across Divisions and with providers • Staff at all levels and across Divisions are accountable • Performance is measured and monitored at DBHDS and in provider community • Improve systems to sanction poorly performing providers • Increase sense of urgency |
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Staff Training

- Continuing to negotiate compliance indicators for staff training – what constitutes competency prior to working alone?
- Continuing to negotiate what coaching requires?
- DOJ adding requests for training requirements for transportation vendors, nurses and clinicians.

Document Library

- Section IX: Finish the Court Ordered DOJ SA Library - purpose
 - Public facing website where it is documented (statute, regulation, guidance, procedure, protocol, forms, checklists) how COVA implements each element of the Settlement Agreement.
 - Ongoing public reporting of evidence of compliance even after case is closed.
 - If COVA regresses, public will know and can contact Judge who can reopen the case.
 - Projected completion 06/2020.

Closing Thoughts

- Plan to stand up any outstanding processes and reviews as soon as possible.
- Demonstrate all aspects of system are operating as intended.
- Demonstrate capacity to continue to improve performance.
- Achieve compliance with as many provisions as possible by 6/30/20.
- Continue to implement and improve through the last year and give the Judge confidence even if not quite finished.

Last Questions?



Thank you for your partnership!

