



STATE OF WEST VIRGINIA
DEPARTMENT OF HUMAN SERVICES

Alex J. Mayer, PhD, MS, PMP
Cabinet Secretary

January 9, 2026

To: West Virginia Stakeholders and Members of the Public

From: West Virginia Department of Human Services (DoHS)

RE: United States Department of Justice - Compliance Assessment

On December 9, 2025, the United States Department of Justice (DOJ) issued the attached compliance assessment to evaluate whether the West Virginia Department of Human Services (DoHS) is providing appropriate services to children with serious emotional disorders pursuant to the May 14, 2019, Agreement and subsequent December 16, 2024 Modification (2024 Modification) between DOJ and DoHS. This assessment was intended to measure compliance for the period of January through June 2025.

The compliance assessment was primarily authored in early fall 2025 by DOJ, prior to the October 2025 release of [DoHS's Annual Quality and Outcomes Report](#). This report provides a comprehensive evaluation of children's mental and behavioral health services, highlighting progress and planned action for continued improvement. Due to the onset of the United States federal government shutdown from October 1, 2025, to November 12, 2025, DOJ had limited opportunity to review and consider additional context provided by DoHS's annual report, prior to their required timeline for publication.

Through further discussion and collaboration, DOJ and DoHS have identified information in the annual report that further support areas of compliance not documented in this assessment. To more accurately reflect DoHS's progress in future cycles, the parties have agreed to modify the schedule of assessments. This will allow DOJ time to utilize DoHS's annual report and other timely updates to inform understanding of compliance with the Agreement. DoHS will submit updates semiannually to DOJ by October 31st and April 30th for each year the Agreement is in place.

DoHS looks forward to continued collaboration with DOJ partners and remains committed to continue prioritizing quality assurance for the children's mental health system, ensuring children can receive the care they need in the most integrated settings, influencing positive outcomes for children and families. For more information on DoHS's progress in these endeavors, reference [DoHS's Annual Quality and Outcomes Report](#) on the Plans and Reports page of the [Kids Thrive website](#), under DoHS Annual Reports.



UNITED STATES DEPARTMENT OF JUSTICE
CIVIL RIGHTS DIVISION
SPECIAL LITIGATION SECTION



Compliance Assessment

West Virginia Department of Human Services January 2025 – June 2025

December 9, 2025

I. EXECUTIVE SUMMARY

This report, prepared by the United States Department of Justice (“DOJ”), assesses whether the West Virginia Department of Human Services (“DoHS”) is providing appropriate services to children with serious mental health conditions pursuant to the May 14, 2019 Agreement (“2019 Agreement”) and subsequent December 16, 2024 Modification (“2024 Modification”). DOJ and DoHS entered into the 2019 Agreement to memorialize their mutual commitment that children with serious mental health conditions have access to needed services in the most integrated setting appropriate, consistent with Title II of the Americans with Disabilities Act, 42 U.S.C. §12101, *et seq.* as interpreted by *Olmstead v. L.C. ex rel. Zimring*, 527 U.S. 581 (1999). DOJ provides this Compliance Assessment pursuant to 2024 Modification, which tasks DOJ with assessing DoHS’s compliance with the 2019 Agreement.

In summary, of the remaining 17 provisions subject to monitoring in the 2019 Agreement, DoHS is in substantial compliance with four provisions and in partial compliance with eleven provisions

as of the January 2025 to June 2025 compliance period. We cannot measure two provisions at this time because DoHS has not yet developed the necessary information to assess compliance.

II. BACKGROUND

On April 30, 2014, DOJ initiated an investigation around West Virginia's service system for children with serious mental health conditions under Title II of the Americans with Disabilities Act ("ADA"), 42 U.S.C. § 12101 *et seq.* Specifically, the investigation focused on whether children in residential treatment received services in the most integrated setting appropriate and whether the systems placing them in residential care accommodated their disabilities.

During its investigation, DOJ reviewed documents provided by DoHS, reviewed publicly available information, and visited nine in-state segregated residential treatment facilities, two shelters housing children with disabilities, and two out-of-state segregated residential treatment facilities where West Virginia placed children with mental health conditions.

On June 1, 2015, DOJ issued its findings letter regarding the results of the investigation. DOJ determined that DoHS did not provide adequate in-home and community-based services which resulted in the unnecessary placement of children in residential treatment facilities. Additionally, DOJ determined that children in the community were at risk of unnecessary placement because in-home and community-based services were unavailable.

On May 14, 2019, the Parties entered into an agreement to resolve the investigation's findings. The 2019 Agreement provided for systemic changes aimed at reducing the number of children unnecessarily placed in residential treatment facilities. Additionally, the agreement outlined steps that DoHS would take to ensure services, programs, and activities met *Olmstead* requirements.

Between May 2019 and December 2024, a subject matter expert (SME) evaluated DoHS's progress toward compliance with the 2019 Agreement. The SME, retained by the State, was to evaluate compliance, produce a draft report to DoHS and DOJ regarding that evaluation, and provide technical assistance to the State. The Parties could provide comments before the SME finalized the report. In their September 2024 Compliance Analysis, the SME found DoHS in substantial compliance with 18 out of 44 of the measured provisions of the original 2019 Agreement.

DoHS has made significant progress toward implementing the 2019 Agreement. DoHS's efforts resulted in systemic changes that included adopting standardized processes, increasing community outreach to raise awareness of the services available, increasing support staff internally, and developing broad quality assurance programs that allow for data collection and tracking around service utilization.

In December 2024, the Parties agreed to modify the 2019 Agreement based on DoHS's progress and efforts thus far. The 2024 Modification updated references to reflect DoHS's efforts and changed the compliance evaluation process. Instead of an external SME, the 2024 Modification requires DoHS to conduct a semi-annual Agreement Review that describes DoHS's efforts. Following DoHS's semi-annual Agreement Review, DOJ prepares a Compliance Assessment that

rates DoHS's compliance with measured provisions. The 2024 Modification listed the provisions subject to monitoring. Most of the provisions come directly from the 2019 Agreement. The provisions DoHS must comply with are: 24, 26, 28, 29, 30 (as modified by the 2024 Modification), 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 52, and 54.

This Compliance Assessment is the first following the 2024 Modification. The prior SME unilaterally divided provisions into subparts and rated those subparts separately. By contrast, DOJ rates the provisions in the integrated form in which they were written. Consequently, there are no ratings for subparts that the prior SME fashioned and then determined to be in substantial compliance. Further, DOJ did not rate provisions where DoHS is still gathering data and other information necessary to assess compliance. But, none of this indicates that DoHS has in any way regressed in implementing the 2019 Agreement and 2024 Modification. To the contrary, DoHS continues to improve services and make great strides toward compliance, as described below.

III. JANUARY – JUNE 2025 AGREEMENT REVIEW

Under the 2019 Agreement, DoHS agreed to (1) provide timely access to appropriate in-home and community-based services in the most integrated setting appropriate to meet the needs of the child; (2) ensure crisis response was available for children in crisis across the state; (3) use validated tools to assist in the screening and assessment of needs; (4) expand therapeutic foster care; (5) ensure statewide access to services under WV's ACT waiver; and (6) reduce the unnecessary placement of children in residential mental health treatment facilities. Taken together, the 2019 Agreement and 2024 Modification support DoHS's service provision across the state in a way that allows more children with mental health needs to remain at home or in the community with appropriate care.

On July 31, 2025, DoHS provided DOJ with its July 2025 Agreement Review as required by the 2024 Modification. The Agreement Review lists the provisions measured along with a summary of DoHS's efforts to meet the requirements and sources of information supporting the efforts.

IV. COMPLIANCE ASSESSMENT

DOJ's assessment included reviewing DoHS's July 2025 Agreement Review, supporting documents, and other documents provided during the compliance period. Our assessment of the substantive paragraphs, as identified by the 2024 Modification, is below.

24. For every child in the target population for whom community-based services are appropriate and whose family or guardian does not oppose community-based services or in the case of children aged 18 or over, the individual does not oppose community-based services, DoHS shall ensure timely access to In-Home and Community-Based Services sufficient to meet the individual's needs including Wraparound Facilitation, Behavioral Support Services, Children's Mobile Crisis Response, Therapeutic Foster Family Care, and Assertive Community Treatment. These services will be provided in a manner that enable the child to remain with or return to the family (or foster or kinship care family or an independent living

setting, where applicable) whenever possible. DoHS shall ensure statewide access to these programs to prevent crises and promote stability in the family home (or foster or kinship care home, where applicable).

SEPTEMBER 2024 SME RATING: Partial compliance with 24a and 24b; substantial compliance with 24c

CURRENT RATING: Rating pending additional review

FINDINGS: We are unable to provide a compliance rating for Provision 24 during this rating period as a thorough evaluation of this provision requires data not yet available. This provision requires an evaluation that reviews whether every child in the target population has access to appropriate community-based services; access is timely; the services meet the child’s needs; service provision occurs in a way that allows the child to remain/return to the family or other care provider when possible; and DoHS provides services statewide.

DoHS’s Agreement Review highlights progress in implementing this provision. One impressive achievement is the impact of wraparound services in decreasing admissions to residential treatment facilities for children receiving waiver services. DoHS’s assessment also shows a significant increase in the capability to measure and review data around service provision. These capabilities empower DoHS to identify trends and enact effective changes moving forward in a way that will continue to benefit DoHS long after termination of this agreement.

While DoHS’s assessment provides information about many areas, it does not currently collect data required to assess whether access to services was timely, the services provided match the needs of the child, or if children receive services in a way that allows them to stay with their families. To address these questions, DoHS is developing a qualitative case review process planned for implementation in 2026. We remain available to assist DoHS’s development and refinement of a qualitative review process. DoHS provided some information addressing service availability throughout the state; however, more information is needed to determine whether the data provided considers the needs of children throughout the state and how service provision rates interact with service waitlists in different regions.

-
26. In-home and community-based services will be delivered at times and locations mutually agreed upon by the provider and the child and family (or foster or kinship care family, where applicable), to assist the child in practicing skill development in the context of daily living.

SEPTEMBER 2024 SME RATING: Partial compliance

CURRENT RATING: Partial compliance

FINDINGS: DoHS is in partial compliance with Provision 26. This provision requires a review of whether DoHS delivers services at mutually agreed times and locations. To

demonstrate its progress, DoHS reports that services are available statewide and that this availability promotes flexible service delivery. Further, DoHS states that providers must include requirements within their documents to address needs outside of typical business hours. However, it is not clear that families and providers mutually agreed-upon service delivery times and locations. DoHS cites to survey responses from September 2024 that indicate less than a third of responses reported barriers existed around delivery times and locations. As previously noted in the 2024 SME Analysis, DoHS needs to review a sample of cases for this provision. To address that need, DoHS indicates that it plans to address this provision as part of the larger qualitative review process discussed above.

28. DoHS shall ensure the timely provision of mental health services to address any immediate or urgent need for services. Such services will be provided through consultation with the child and family (or foster or kinship parent, where applicable) and include needed in-home and community-based services and linkage to other service providers.

SEPTEMBER 2024 SME RATING: Partial compliance

CURRENT RATING: Partial compliance

FINDINGS: DoHS is in partial compliance with Provision 28. This provision requires a review of whether DoHS appropriately identifies immediate or urgent needs; children with immediate or urgent needs receive services; service delivery is timely; service delivery providers consult with the child and family; and services include needed in-home and community-based services and linkage to other service providers. To demonstrate its progress, DoHS reports the addition of certified community behavioral health centers in October 2024 and an extension of crisis response services in February 2024. Additionally, DoHS utilizes an Assessment Pathway that shows increased connection with services after referral. These services are strengths for DoHS as it continues to improve support access and service provision across the state to children in need. However, these efforts do not address whether providers deliver the services in a timely manner, whether assessments appropriately identify immediate or urgent needs, or whether the child and family consult with providers regarding services. As with Provision 26, the 2024 SME Analysis noted that a full evaluation of this measure requires a case review across different service areas. DoHS plans to address this provision question as part of the larger qualitative review process currently scheduled for deployment in 2026.

29. Children’s Mobile Crisis Response shall be available to all children, regardless of eligibility, to prevent unnecessary institutionalization of children with serious mental health crises. Children’s Mobile Crisis Response shall provide toll-free crisis hotline services and Crisis Response Teams that are available throughout the state and staffed 24-hours per day, seven days per week. Callers will be directly

connected to a trained mental health professional with experience or competency-based training in working with children in crisis.

SEPTEMBER 2024 SME RATING: Substantial compliance with 29a; partial compliance with 29b

CURRENT RATING: Partial compliance

FINDINGS: DoHS is in partial compliance with Provision 29. This provision requires that Children’s Mobile Crisis Response is available to all children; there is a toll-free crisis hotline service available and staffed 24/7; there is a crisis response team available and staffed 24/7 throughout the state; trained mental health professionals directly connect to the callers; and those professionals have experience or competency-based training working with children in crisis. To demonstrate its progress, DoHS reports that a crisis line is available 24/7, operators answer incoming calls within 13 seconds, and provider agreements require 24/7 response statewide. DoHS’s mobile response continues to build on progress noted in prior SME reports. For example, DoHS increased the availability of services by adding mobile response services to its Medicaid state plan in February 2024 and requiring Certified Community Behavioral Health Centers (CCBHCs), certified in October 2024, to provide these services to any child requesting care. However, DoHS’s supporting information does not address whether mental health professionals with requisite experience or training connect to the caller. To demonstrate substantial compliance, DoHS should provide data to support the requisite qualifications of staff.

-
30. DoHS shall maintain and require compliance with policies and procedures regarding crisis services, including:
- a. Criteria for how the hotline staff will assist with immediate stabilizations;
 - b. Requirements that Crisis Response Teams have access to needed information regarding the child and family when the family provides consent (including any existing crisis plans and the Individualized Service Plan).
 - c. Guidelines for hotline staff to assess the crisis to determine whether it is appropriate to resolve the crisis through a phone intervention or a face-to-face intervention;
 - d. A requirement that each region of the state has sufficient Crisis Response Team(s) to serve the entire region and to respond face-to-face to a call within an average time of one hour; and
 - e. Data collection to assess and improve the quality of crisis response, including the timeliness of the crisis response and subsequent intake process, and effectiveness of engaging families in home and community based services following the crisis.

CURRENT RATING: Partial compliance

FINDINGS: DoHS is in partial compliance with Provision 30. The 2024 Modification updated this provision from the 2019 Agreement to reflect DoHS’s completed development of the required policies and procedures. To show its progress in this area, DoHS notes that the required policies remain in place. DoHS’s supporting information does not confirm whether it is tracking if providers are complying with requirements, including whether operators appropriately transfer calls as outlined in the policies and procedures. DoHS must provide information showing such oversight of providers to demonstrate compliance with this provision.

-
31. DoHS shall ensure that all children who are eligible to receive mental and physical health care and services through DoHS are screened to determine if they should be referred for further mental health evaluation or services. DoHS shall adopt a standardized set of mental health screening tools for use in identifying who may be in the target population. A mental health screen shall be completed for any child not already known to be receiving mental health services when: the child enters DoHS Youth Services, the child welfare system, or the juvenile justice system; or the child or family (or foster or kinship care family, where appropriate) requests mental health services or that a screen be conducted. In addition, DoHS shall conduct outreach and training on the use of the screening tools to physicians who serve children who are Medicaid-eligible. Fifty-two percent of Medicaid-eligible children who are not in the Youth Services, child welfare, or juvenile system systems shall be screened with the mental health screening tool annually.

SEPTEMBER 2024 SME RATING: Partial compliance with 31a, 31c, and 31e; substantial compliance with 31b and 31d

CURRENT RATING: Substantial compliance

FINDINGS: DoHS is in substantial compliance with Provision 31. This provision requires an evaluation of whether DoHS is screening all eligible children; screenings use a standardized screening tool; children not receiving services who trigger the need for a screening receive a screening; DoHS conducts outreach and training for physicians; and screenings include at least 52% of Medicaid-eligible children outside of the identified systems. To demonstrate its progress, DoHS reports that multiple types of service providers use DoHS’s standardized screening tools. Additionally, DoHS exceeded the 52% Medicaid-eligible screening requirement, with 53.4% and 52.4% screening rates in 2024 Q3 and Q4, respectively. DoHS’s success in this provision standardizes the screening process and helps identify children who may be in need of mental health services.

-
32. For a child whose screening indicates a need for further evaluation or services, for whom placement in a Residential Mental Health Treatment Facility is

recommended or has been made, or who has received mental health crisis intervention, DoHS shall timely provide an intake and assessment process which includes a face-to-face meeting with a community provider, the child, and family (or foster or kinship parent, where applicable), to identify the child’s need for in-home and community-based services. It is presumed that all children who reside in a Residential Mental Health Treatment Facility on the Effective Date,¹ or who are placed in a Residential Mental Health Treatment Facility after the Effective Date, need in-home and community-based services.

SEPTEMBER 2024 SME RATING: Partial compliance

CURRENT RATING: Partial compliance

FINDINGS: DoHS is in partial compliance with Provision 32. This provision requires an evaluation of whether DoHS conducts timely intakes and assessments following an identification of need; and the intake and assessment process include a face-to-face meeting between the community provider, the child, and the family to identify the need for services. DoHS reports the Assessment Pathway is strengthening connections between services and increasing referrals for needed services. Additionally, DoHS reports that increased assessments result in updated discharge plans addressing needed in-home and community-based services for almost all children in facilities. DoHS’s Agreement Review discusses how wraparound services and discharge planning assessments aid its integration efforts by addressing readmission rates but cautions that children at risk for readmission under-utilize wraparound services. DoHS’s acknowledgement of the benefits of wraparound services for those children at risk for readmission, along with the underutilization of this service, showcases why the service is beneficial and that DoHS can self-identify trends that may aid in future planning or targeted outreach initiatives. However, DoHS’s information does not confirm timely intake and assessments or whether the meetings occur face-to-face. That information may be available after DoHS integrates qualitative review processes referenced above.

Separately, DoHS reports that it is currently enhancing discharge planning and aftercare processes to better understand connections between provider readmissions and family-focused discharge. DOJ welcomes the opportunity to hear more about this initiative.

-
33. DoHS shall ensure statewide access to Wraparound Facilitation for each child identified as needing in-home and community-based services, per paragraph 32, to allow for meaningful family involvement and timely provision of services. In Wraparound Facilitation, the Child and Family Team shall manage the care of the child, and the Wraparound Facilitator shall lead the Child and Family Team.

¹ “Effective Date” means May 14, 2019. *See* 2019 Agreement, ¶ 9.

SEPTEMBER 2024 SME RATING: Substantial compliance²

CURRENT RATING: Substantial compliance

FINDINGS: DoHS is in substantial compliance with Provision 33. This provision requires an evaluation of whether wraparound services are available statewide to children in need; services allow for meaningful family involvement and are timely; the team manages the care of the child; and the facilitator leads the team. DoHS reports the growth of wraparound services and ongoing facilitator training through the University of Connecticut. To show statewide availability, DoHS reported in its Agreement Review that it provides wraparound services to more than twice as many children as the number of children in residential facilities. These services, first implemented as part of the Children with Serious Emotional Disorder (CSED) Medicaid waiver in 2020, expanded again with the addition of CCBHCs to the CSED waiver in October 2024. We are maintaining the SME’s previous finding of substantial compliance but note that DoHS’s information does not address the extent to which the Child and Family Team manages the child’s care, the timeliness of service provision, or the extent to which children and families are meaningfully involved in this process. Furthermore, Marshall University’s Wraparound Fidelity report provides only a general understanding of some indirectly related areas, like meeting attendance. Additionally, the wait for wraparound services varies widely throughout West Virginia. DOJ recommends that DoHS continue to evaluate need compared to service area to ensure services are available in practice, on a timely basis.

-
34. DoHS shall ensure that each Child and Family Team operates with high fidelity to the National Wraparound Initiative’s model.

SEPTEMBER 2024 SME RATING: Partial compliance

CURRENT RATING: Partial compliance

FINDINGS: DoHS is in partial compliance with Provision 34. This provision requires the teams meet the high fidelity ratings established by the National Wraparound Initiative. Marshall University conducts the fidelity review for wraparound services. DoHS reports that it has implemented recommendations from the 2023 fidelity review and highlights key findings in the most recent review. These findings include improvement in many areas, such as timeliness, stable living situations, and school attendance, but a decrease in required team meeting participation by important team members, including service providers, peer partners, and natural supports. Marshall University’s findings found wraparound services at “adequate” overall fidelity. However, the fidelity review highlights

² The September 2024 SME Report did not provide an explanation of this compliance rating. The March 2024 SME Report rated this provision together with subparts of multiple other provisions (24c, 29a, and 40c). That report did not provide an independent evaluation of Provision 33 in isolation.

a broad upward trend in services as compared to 2023, and DoHS continues to make progress toward high fidelity in wraparound services.

35. DoHS will use the Child and Adolescent Needs and Strengths (CANS) tool (or similar tool approved by both parties) to assist the Child and Family Team in the development of Individualized Service Plans for each child who has been identified as needing in-home and community-based services, per paragraph 32. A qualified individual, as further determined by the Parties and defined in the implementation plan, shall conduct an assessment of the child's needs with the CANS. The Wraparound Facilitator shall lead the development of the Individualized Service Plan. For children who are in Residential Mental Health Treatment Facilities, the Individualized Service Plan shall include discharge planning.

SEPTEMBER 2024 SME RATING: Partial compliance with 35a; substantial compliance with 35b

CURRENT RATING: Partial compliance

FINDINGS: DoHS is in partial compliance with Provision 35. This provision requires an evaluation of whether providers use the CANS (or alternative tool) when developing service plans; qualified individuals conduct the assessment; wraparound facilitators lead service plan development; and children in residential treatment have service plans with discharge planning components. To show its progress, DoHS explains that it adopted CANS across multiple programs and includes CANS reviews in ongoing quality improvement processes.

Like the wraparound assessment, Marshall University completed a review of how wraparound facilitators are using the CANS tool. This report identified DoHS's successes and areas warranting improvement. For the latter category, the review noted that DoHS does not have processes to ensure that only certified facilitators administer the CANS. Also, the review found that facilitators assessed children as requiring intervention in an area of need without explaining the basis. Consequently, the CANS did not provide Child and Family Teams responsible for developing an Individualized Service Plan a clear understanding of the issue, which is necessary to develop responsive interventions. The review also surfaced evidence that some facilitators did not rate items correctly, therefore reducing the reliability of the CANS.

Separately, DoHS provided some information about discharge planning in residential placements, but the information discusses only some of what Paragraph 35 requires. Further, a report addressing out-of-state residential placements discusses discharge planning in that population and indicated that, because of capacity issues, DoHS stated that it deprioritized discharge planning for children who were not returning to their families, but the report is unclear if any of those children received discharge planning.

36. For any child who has a Multidisciplinary Treatment Team (MDT), DoHS shall provide the child’s screening, assessments, and Individualized Service Plans to the MDT.

SEPTEMBER 2024 SME RATING: Partial compliance

CURRENT RATING: Partial compliance

FINDINGS: DoHS is in partial compliance with Provision 36. This provision requires DOHS to provide screening, assessments, and Individualized Service Plans to the MDT, enabling the MDT to make decisions based on all relevant available information. DoHS reports that providers have policies in place to address this requirement. However, DoHS also reports that documentation is inconsistent to support underlying compliance with the policy. DoHS self-identified this concern and responded by reviewing, as part of its quality improvement processes, whether MDT members could access relevant documents. DoHS also raised this issue at district level compliance review exit meetings. DOJ applauds these efforts, which highlight DoHS’s growing capacity to identify and correct service issues.

-
37. DoHS, in cooperation with the Department of Education and the Department of Military Affairs and Public Safety, shall provide services in the child’s family home (or foster or kinship care home, where applicable) and in the community. The services that may be necessary for children in the target population include:
- a. Family support and training services that provide education and training for the child's family (or foster or kinship care, where applicable) about the child's condition and how the family can best support the child in the home and community;
 - b. Behavioral Support Services; and
 - c. In-home therapy that provides a structured, consistent, strengths-based therapeutic relationship between a licensed clinician, the child, and family (and foster or kinship care family, where applicable) for the purpose of effectively addressing the child's mental and behavioral health needs.

SEPTEMBER 2024 SME RATING: Partial compliance with 37a and 37c; substantial compliance with 37b

CURRENT RATING: Rating pending additional review

FINDINGS: We are unable to provide a compliance rating for Provision 37 during this rating period as a thorough evaluation of this provision requires data not yet available. This provision requires DoHS and other West Virginia agencies to provide necessary services in the child’s family home and in the community. To demonstrate its progress, DoHS highlights the availability of behavior support services, family support and training, and in-home therapy. It also notes that DoHS’s ongoing collaboration with other departments

benefits DoHS's efforts to provide care, as referrals from those sources increase use of home and community-based services. However, DoHS did not provide information showing the extent children receive these services as necessary. DoHS indicates that the qualitative sampling review process planned to begin in 2026 should address this issue.

-
38. DoHS shall expand Therapeutic Foster Family Care statewide. DoHS shall develop Therapeutic Foster Family Homes and provider capacity in all regions and shall ensure that all children who need this service are timely placed in a Therapeutic Foster Family Home with specially trained therapeutic foster parents, in their own community whenever possible.

SEPTEMBER 2024 SME RATING: Not rated per agreement between DOJ and DoHS

CURRENT RATING: Partial compliance

FINDINGS: DoHS is in partial compliance with Provision 38. This provision requires an evaluation of whether Therapeutic Foster Family Care and related providers are available in all regions; DoHS timely places children with caregivers who can provide Therapeutic Foster Family Care; therapeutic foster parents receive special training; and the child remains in their own community whenever possible. DoHS commendably takes a unique approach to providing Therapeutic Foster Family Care. Many states use a tiered system where only a subset of families receive training and care for children with elevated needs. DoHS's approach trains all foster families to be Therapeutic Foster Families. This approach also ensures timely placement in children's home communities and promotes stability by eliminating the need for a child to move homes to access a different level of care. DOJ applauds DoHS's approach, which circumvents logistical challenges in a tiered system. However, DoHS has not provided information demonstrating that all children who need this service are timely placed in Therapeutic Foster Family Care in their community where possible. This information on timely placement is necessary to achieve substantial compliance.

-
39. DoHS shall ensure ACT, which DoHS began providing in 2003, is available statewide, and that members of the target population between the ages of 18 to 20 who need ACT receive it timely. ACT teams may substitute for the Child and Family Team under the terms of this agreement. Where the ACT teams substitute for the Child and Family Teams, the ACT teams shall develop the Individualized Service Plan; and provide or ensure access to needed in-home and community-based services.

SEPTEMBER 2024 SME RATING: Substantial compliance³

CURRENT RATING: Substantial compliance

FINDINGS: DoHS is in substantial compliance with Provision 39. This provision requires an evaluation of whether: ACT is available statewide; ACT services are timely; and individuals receive ACT services when appropriate. DoHS reports statewide service availability and recent expansion of ACT services through expanded Certified Community-Based Behavioral Health Centers, and data show increasing utilization of ACT services, from five youth between January to June 2023 to eight youth from July to December 2024. DoHS also provided a report that reviews ACT services provided during 2024. We are maintaining the SME's previous finding of substantial compliance. However, we note that the report reviewing ACT services does not allow a differentiation between individuals aged 18 to 20 and those above 21, so it is unclear as to whether services for individuals aged 18 to 20 were timely and provided when appropriate. Furthermore, it is unknown how many youths need ACT but are awaiting services. DoHS should clarify future reports to maintain substantial compliance.

-
40. DoHS shall provide high quality in-home and community-based mental health services that are timely and individualized to the child's needs. DoHS shall ensure that children receive, as needed, all of the in-home and community-based services described in this agreement. DoHS shall ensure that each of these services is available and accessible statewide to children in the target population in the necessary amount, location, and duration. DoHS shall provide families and children with accurate, timely, and accessible information regarding the available in-home and community-based services in their communities.

SEPTEMBER 2024 SME RATING: Partial compliance with 40a and 40b; substantial compliance with 40c and 40d

CURRENT RATING: Partial compliance

FINDINGS: DoHS is in partial compliance with Provision 40. This provision requires a review of whether: a) DoHS provides services in a timely manner; b) provided services are individualized to the child's need; c) children receive all services needed; d) the services are available statewide; and e) accurate, timely, and accessible information is available to families about in-home and community-based services in their communities. DoHS's Agreement Review highlights the Assessment Pathway's importance around increasing access to supports and services. DoHS also promotes service accessibility through Family Resource Centers and the Kids Thrive Collaborative's website, resources, and events.

³ The September 2024 SME Report did not provide an explanation of this compliance rating, and the March 2024 SME Report contained conflicting ratings of Provision 39. The summary table on page 11 reported substantial compliance for this provision while the written evaluation on page 36 found partial compliance for similar reasons as identified here.

DoHS's quality improvement process also reviews data around service referral and utilization trends. Additionally, DoHS's Managed Care Organization compares plans and service utilization to determine whether the planned services match the used services. However, identified efforts do not address whether the service plans accurately reflect underlying needs or that the services are available in practice in all areas of the state. A qualitative review evaluating a child's needs compared to service delivery can shed light on these areas. As noted throughout this Compliance Assessment, DoHS plans on integrating a qualitative review process in 2026. DOJ looks forward to reviewing information from that process.

52. The Parties anticipate that implementation of services described in paragraphs 24 through 40 will be phased in regionally across the state, according to a timeline detailed in the implementation plan. DoHS may specify reducing out-of-state placements as a priority in its implementation plan. DoHS will implement statewide reforms as follows:

- a. Implementation of the provisions of this agreement regionally across the state by dates identified in the implementation plan, with initial statewide implementation by October 1, 2020;
- b. As in-home and community-based services developed pursuant to this agreement expand to new regions of the state, DoHS will assess the strengths and needs of children in residential placement from those regions, identify services children need to return to those communities, and develop a plan to address any barriers to accessing those in-home and community-based services, including gaps in services;
- c. DoHS shall include in the implementation plan a plan for the reduction of the unnecessary use of Residential Mental Health Treatment Facilities for children relative to the number of children living there on June 1, 2015. The expected goal by December 31, 2022 is a 25% reduction from the number of children living in Residential Mental Health Treatment Facilities as of June 1, 2015. Based on the assessment described in paragraph 52.b, by June 30, 2020, the parties shall meet and confer to determine expected percentage goals for reduction of children living in Residential Mental Health Treatment Facilities in subsequent years. DoHS shall include these goals in its implementation plan. In determining these expected goals, the parties may reference the Adoption and Foster Care Analysis and Reporting System or similar national reporting database agreed upon by the parties. If the State has not met its interim or final goals for a reduction in the use of Residential Mental Health Treatment Facilities, the State will assess the reasons why it has not met these goals and create an action plan to meet these goals.

- d. Any children residing in a Residential Mental Health Treatment Facility on December 31, 2024 must have been assessed by a qualified professional and determined to be in the most integrated setting appropriate to their individual needs.

SEPTEMBER 2024 SME RATING: Partial compliance with 52b, 52c, and 52d

CURRENT RATING: Partial compliance

FINDINGS: DoHS is in partial compliance with Provision 52. This provision requires an evaluation of whether: services are available regionally across WV; the implementation plan discusses reduction in residential treatment facilities; residential populations declined by 25% by December 31, 2022; DoHS meets additional agreed-upon goals for reduction or discuss inability to meet the goals; and DoHS assessed all children in a residential treatment facility by the end of 2024 and determined they were in the most integrated setting appropriate.

First, DoHS satisfied the initial 25% residential population reduction goal between June 1, 2015 (1,096 children) and December 31, 2022 (approximately 772 children, or a 29.6% reduction). In 2020, the Parties agreed that DoHS should reduce the population by 35% (to approximately 712 children) by the end of 2024. DoHS has not met this requirement. The residential population rose back to 896 children in November 2023, and although trending downward again, 810 children were in residential facilities on December 29, 2024. The Parties did not establish any goals beyond the end of 2024.

To address the remaining areas of this provision, DoHS highlights systemwide quality improvement processes and pre-placement assessments. However, DoHS has not shown that all services are available in practice across the state. Also, DoHS did not provide information to show whether all children in residential treatment received assessments identifying their level of need by the end of 2024. Because of that gap in information, it is unknown how many children currently in residential treatment facilities could be served appropriately with in-home and community-based care, if they elect, after an informed and meaningful choice regarding where to receive services.

-
54. As part of its implementation plan described in paragraph 41 above, the State shall develop a plan for outreach and education of stakeholders in the state of West Virginia on the importance of the stated reforms prescribed in this agreement. The United States will make a good faith effort to participate in joint education efforts described in the plan.

SEPTEMBER 2024 SME RATING: Substantial compliance

CURRENT RATING: Substantial compliance

FINDINGS: DoHS is in substantial compliance with Provision 54. This provision requires review of DoHS's outreach and education. DoHS's efforts successfully built a coalition

around reforming services for children's mental health needs in WV. As noted above, Kids Thrive Collaborative meetings and resources bring together stakeholders to address progress. Increasing referrals and service utilization shows the impact of continuing community outreach. DOJ applauds DoHS's continuing commitment to reform.

V. CONCLUSION

DoHS and DOJ's agreement ensures that, once implemented, children with serious mental health conditions will receive services in the most integrated setting appropriate and avoid unnecessary placements in Residential Mental Health Treatment Facilities. DoHS's continued efforts highlight DoHS's commitment to preventing the unnecessary removal of children from their family homes and communities and its compliance with the requirements of Title II of the Americans with Disabilities Act.