

# *Ligas* Implementation Plan FY2021 Revisions

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State of Illinois

**Department of Human Services, Division of Developmental Disabilities**

**09/09/2020**

This Implementation Plan has been developed by the Division of Developmental Disabilities, with input from the Plaintiffs, Intervenors, and Monitor, to accomplish the obligations and objectives set forth in the *Ligas v. Hamos* Consent Decree. (Case: 1:05-cv-04331 Document #: 549)

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## Section I. Executive Summary

### Background of Litigation and Overview of Consent Decree

On June 15, 2011, a federal judge approved a Consent Decree settling the *Ligas v. Hamos* lawsuit (now *Ligas v. Eagleson*), filed on July 28, 2005, on behalf of two groups of Class Members with developmental disabilities:

- Adult individuals in Illinois with developmental disabilities who qualify for Medicaid Waiver services, who reside in ICFs/DD with nine or more residents, and who have a current record affirmatively requesting to receive Community-Based Services or placement in a Community-Based Setting.
- Adult individuals in Illinois with developmental disabilities who qualify for Medicaid Waiver services, who reside in a Family Home, who are in need of Community-Based Services or placement in a Community-Based Setting, and who have a current record affirmatively requesting Community-Based Services or placement in a Community-Based Setting.

The Decree included annual requirements for transition of individuals out of ICF/DDs as well as those waiting for services, based on individual choice and preferences.

The Decree required significant expansion of the community-based system to meet the growing demand for those services, while continuing to honor an individual's choice in deciding on the types of services and settings he or she prefers in order to live a personally fulfilling and productive life. The Decree includes the following provisions:

- Services for Individuals Currently Residing in ICFs/DD

Within six years of approval of the Decree, all individuals living in ICF/DD as of the effective date of the Decree who have affirmatively requested Community-Based Settings were to move to Community-Based Settings. For those individuals who wish to continue living in an ICF/DD, the Decree requires the State to honor that choice and to continue to provide adequate funding to meet the needs of such individuals.

- Services for Individuals Currently Residing in the Family Home

The DDD was to serve 3,000 individuals on the Waiting List for Community-Based Services or placement in a Community-Based Setting, as defined in the Decree, over the first six years of the Decree (1,000 within the first two years and 500 each year the next four years) with home-based support services or in community-based residential settings. After the end of the six-year period, all Class Members on the PUNS list are to be served at a reasonable pace. In addition, individuals meeting established crisis criteria continue to be expeditiously served, without limits as to the number of people served.

- Other General Provisions

- Evaluations and Transition Service Plans will focus on individual desires and goals and will not be limited by existing services. The State, however, is not required to develop or offer services that are not part of the approved Waiver or Medicaid State Plan.

- The Department of Human Services (DHS) will seek sufficient funds in annual budget requests to develop and maintain the services described in the Decree. Implementation of the Decree is not, however, dependent on legislative appropriation of new funds.
- A Court Monitor will be appointed by the Court to oversee compliance with the Decree and report on progress to the Court on an annual basis. After nine years of the approval of the Decree, the State may petition the Court to terminate the monitoring process.

### The Implementation Plan

This document sets forth the State's plans to implement the provisions of the Consent Decree for Fiscal Year 2021. It was developed in accordance with Paragraph 26 of the Consent Decree and has incorporated input received from the Plaintiffs, Intervenors and the Court Monitor. References to paragraph numbers in each of the sections below refer to paragraphs within the Consent Decree from which language is excerpted. For full context, readers should refer to the Consent Decree. Should any language in the Implementation Plan unintentionally conflict with that of the Consent Decree, the Consent Decree governs. Each Section of the decree is discussed separately below:

## **Section II. Development and Maintenance of the Class Member List**

*Paragraph 6. Within thirty (30) days after Approval of the Decree, Defendants shall compile an initial list of Class Members by taking the list of Individuals to whom notice of Preliminary Approval of this Decree was sent, adding those Individuals from whom any of the Parties received a written, affirmative request to receive Community-Based Services or placement in a Community-Based Setting after notice of Preliminary Approval of this Decree was sent, but excluding (i) those individuals who filed objections to the Proposed Consent Decree that was the subject of the July 1, 2009 Fairness Hearing as described in Paragraph 3(i) above, and (ii) those Individuals from whom Defendants receive written requests that the Individuals do not wish to receive Community-Based Services or placement in a Community-Based Setting.*

*Paragraph 8. Defendants shall maintain a statewide database in which all Class Members are enrolled.*

Consistent with Paragraph 6 of the Consent Decree, a Class Member list was created and has been maintained since the initial list was provided to the Monitor and Plaintiffs on July 15, 2011. The list includes:

- Adults (age 18 and above) enrolled in the State's Prioritization of Urgency of Need for Services (PUNS) database as of June 15, 2011, who were not already

living in a 24-hour Community-Based Setting or State-Operated Developmental Center (SODC); and

- Individuals who had submitted written requests to be included in the Class to the Attorney General's Office.

The list does not include those excluded from the class in accordance with the provisions of Paragraph 6 of the Decree. For the first six years of the Decree (through June 11, 2017), the ICF/DD Class Member List was finalized, and per the Decree, new ICF/DD Class Members will only be added if they enroll on PUNS and go through the process identified in the Reasonable Pace section (see Section VII – Waiting List for Community Services and Placement). The Class List may continue to be modified under limited and specific circumstances where an individual's rights under the *Ligas* Decree were not properly exercised. However, individuals from the PUNS waiting list continue to be added as Class Members (including individuals who may be residing in an ICF/DD and enroll on PUNS).

### **Section III. Outreach**

*Paragraph 25. Defendants shall maintain a fair and accessible process by which Individuals with Developmental Disabilities or their legal guardians can affirmatively request in writing to receive Community-Based Services and/or placement in a Community-Based Setting or to receive ICF-MR services in an ICF-DD, and Defendants shall maintain up-to-date records of those requests.*

Outreach required by the Decree to potential Class Members in ICF/DD settings has concluded. DDD will continue to identify those Medicaid-eligible individuals in need of services through continuation of the PUNS database and work with the ISC Agencies. DDD will continue to maintain the ISC office locator function and toll-free number in addition to numerous web-based resources to enable families and guardians to learn about and apply for services.

#### General Information Sharing

DDD continues to maintain and update the *Ligas* page on its website. The page is located at <http://www.dhs.state.il.us/page.aspx?item=66987>. The DDD will post a schedule on its website of all events in which it will present information about the Consent Decree.

#### Ligas Class Member/Family Advisory Town Hall

The Defendants, in conjunction with the Monitor and with input from the Parties, established a *Ligas* Class Member/Family Advisory Committee (CMAC). During FY19 and FY20, the format was modified. For FY21, subject to COVID restrictions and concerns, DDD will hold two (semi-annual) *Ligas* Town Hall meetings in addition to two CMAC meetings, some of which may be held via webinar. These meetings will allow

Class Members, families, guardians and other interested parties to hear updates directly from DDD staff and to speak from their perspective. The Town Halls will be open to the public and summaries will be provided to the Parties and Monitor. Meeting dates and summaries will be posted on the DDD's website<sup>1</sup>.

## **Section IV. Development of Community Capacity**

*Paragraph 4. The choices of Individuals with Developmental Disabilities, including Class Members, to receive Community-Based Services or placement in a Community-Based Setting or to receive ICF/MR services in an ICF-DD will be honored; provided, however, that this commitment to honoring choice does not alter Defendants' current obligations under existing law regarding licensed ICF-DD capacity system-wide or at any specific ICF-DD, and provided that, under current applicable law, this commitment does not entitle an Individual with Developmental Disabilities to receive ICF/MR services in a specific ICF-DD. Defendants shall implement sufficient measures to ensure the availability of services, supports and other resources of sufficient quality, scope and variety to meet their obligations to such individuals under the Decree and the Implementation Plan consistent with such choices. While the Decree remains in effect, any amendment to the State Plan submitted by the State pursuant to 42 U.S.C. § 1396, et seq. will continue to include ICF-DD services as an alternative choice for long-term care services for eligible Individuals with Developmental Disabilities. Nothing in this Decree shall impair Defendants' ability to make changes in their provision of supports and services to Individuals with Developmental Disabilities, including Class Members, regardless of setting, provided that Defendants continue to honor Individuals' choices and fulfill Defendants' obligations under the Decree and Implementation Plan. Resources necessary to meet the needs of Individuals with Developmental Disabilities who choose to receive services in ICFs-DD shall be made available and such resources will not be affected by Defendants' fulfillment of their obligations under the Decree, including the obligations under Paragraphs 17 through 19 and 21 through 23. Funding for services for each Individual with Developmental Disabilities will be based on the Individual's needs using federally approved objective criteria regardless of whether the Individual chooses to receive services in an ICF-DD or in a Community-Based Setting; provided, however, nothing in this Decree shall require Defendants to change their current method for establishing funding or from adopting new methods based upon federally approved objective criteria.*

*Paragraph 5. Annual budgets submitted by Defendants on behalf of their agencies shall request sufficient funds necessary to develop and maintain the*

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<sup>1</sup> The link to the Ligas Family Advisory Council page is:  
<https://www.dhs.state.il.us/page.aspx?item=69772>.

*services, supports and structures described in the Decree, consistent with the choices of Individuals with Developmental Disabilities, including Class Members. Defendants shall take steps sufficient to implement funding mechanisms that facilitate transition among service settings.*

During the first six years of the Decree, the benchmark of serving 3,000 individuals currently living at home through either Community Integrated Living Arrangements (CILAs) or Home-Based Support Service (HBS) was achieved. In addition, Class Members residing in ICF/DDs also moved to CILA or HBS settings. Class Members continue to move into CILA or HBS under the Reasonable Pace provisions of the Decree. Individuals selected to receive services under this Consent Decree may choose from any qualified and willing provider as defined in the Waiver.

Illinois has a substantial base of qualified HBS, CILA, and day program providers. Based on billing information, as of January 1, 2020, there are 228 licensed CILA providers (an increase of 6), 119 Self-Directed Assistance providers,<sup>2</sup> 153 Developmental Training/Community Day Service providers are utilizing 339 sites, and 71 supported employment providers, as well as providers of therapies, assistive technology, and other support services under the Waiver.

DDD continues to review progress toward expansion of services as necessary to implement the provisions of the Decree. In FY21, DDD will survey ISC agencies and provider agencies to understand the barriers to increasing community capacity, with a specific focus on the barriers to opening CILAs for those with physical accessibility needs, high behavioral needs, and high medical needs. DDD will utilize the survey data and, to the extent practicable, will develop plans to implement changes in FY22 and beyond. The State will update the Court Monitor and Parties on this work by March 1, 2021.

#### Data Reporting, Focused Selection and the PUNS Selection List

DDD reports on all active Class Members seeking and/or in need of services on the Ligas Services List, which has been compiled into a database allowing inquiries and searches of particular groups and individual Class Members.

DDD has continued to participate in monthly calls between Defendants and Parties to discuss specific Ligas Class Members who have funding sources and who continue to seek community-based services.

DDD includes in the monthly reports a summary of all Class Members who have either been removed from the Ligas selection list or placed on “hold.” In addition, a separate submission is provided only to the Plaintiffs and Monitor, to identify the factual basis for the determination. DDD will also continue to provide to Plaintiffs and the Monitor

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<sup>2</sup> Service Facilitation is no longer a requirement under the Home-Based Services Program, but such services, now called “Self-Directed Assistance” are available if desired.

PUNS data (including those actively seeking services and planning) and a list of all individuals who have been selected from PUNS but who have not initiated services within 18 months of their selection for further analysis and discussion.

### Provider Qualifications and Training

#### New Providers

New provider information continues to be available on the DDD website<sup>3</sup>, including information on qualifications, regulations, compliance issues, staff training, DDD contacts, etc., as well as information on mandatory orientation sessions required for all new providers. DDD will explore ways to identify potential provider agencies including working with national organizations to identify strategies to bring in new providers and encourage/incentivize existing providers to serve individuals with physical accessibility needs, high behavioral needs, and high medical needs. The State will update the Court Monitor and Parties on this work by March 1, 2021.

#### Training and Qualifications

The qualifications for each type of Waiver provider are specified in Appendix C of the Waiver<sup>4</sup>. Training requirements are listed and described in the DDD's training catalogue available on the DDD's website<sup>5</sup>. DDD will review qualifications for ID/DD waiver provider agencies in other states and will reach out to national organizations to better understand their Waiver accessibility requirements. The State will update the Court Monitor and Parties on this work by March 1, 2021.

#### Conversion of ICF/DD Capacity

DDD may enter into voluntary closure agreements with providers of ICFs/DD, during which DDD ensures that ICF/DD residents transitioning to a new residential setting are provided with an assessment and service plan that meets the requirements of the Decree, informed of their right to explore options among any qualified provider and are given a choice of qualified residential providers if they choose to explore those options. For ICFs/DD with the capacity to serve 16 or more individuals, closure agreements provide for rates during the closure period that recognize the need for coverage of fixed costs while individuals are transitioning to new residential settings of their choice, whether operated by the same or a different provider.

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<sup>3</sup> The link to the new provider page is: <http://www.dhs.state.il.us/page.aspx?item=47336>.

<sup>4</sup> The link to the adult DD Waiver is: <http://www.dhs.state.il.us/OneNetLibrary/27896/documents/Reta/AdultDDRenewalApproved7117.pdf>.

<sup>5</sup> The link to the DDD's training information is: <http://www.dhs.state.il.us/page.aspx?item=45209>.

In order to provide more detail about the downsizing/closure process, a sample agreement is available for reference on the DDD's website<sup>6</sup>.

### Employment

Employment of Class Members will have an increased focus during FY21, as detailed in Section XIII. DDD continues to work collaboratively with the Division of Rehabilitation Services (DRS) to develop a smoother process to ensure Class Member access to Vocational Rehabilitation services. The roles and responsibilities of DDD and DRS are being more clearly delineated, and will form the basis for a Memorandum of Understanding (MOU) between the Divisions to guide the work done on behalf of the individuals served. It is anticipated that the MOU will be completed by September 30, 2020.

The Division will also continue to emphasize the necessity of addressing employment issues and opportunities during the assessment and planning process with Independent Service Coordination Agencies through Information Bulletins as necessary.

Additionally, based on one of the recommendations of the Ligas Rates Oversight Employment and Training Sub-committee, DDD joined the State Employment Leadership Network (SELN) in FY20. The SELN did an on-site visit in December 2019 and in May 2020, released the final recommendations report. DDD will post the SELN recommendations report to the IDHS/DDD webpage by September 15, 2020. DDD is planning to hire a staff person that will work on employment and around the implementation of the recommendations found in the report. Ahead of the hiring, the Division will convene a group to work on the report's implementation that will include DDD staff, DHS staff, the Illinois Council on Developmental Disabilities (ICDD), and others. DDD plans to begin implementation recommendations in FY21.

Specific to DRS employment services, Public Act 101-0368 required the Division to create a five-year Customized Employment Pilot Program. The Pilot went into effect on July 1, 2020 and will meet the requirements as set forth in the legislation as to the number of providers and individuals in the Pilot.

Defendants will keep the Monitor and Class Counsel regularly updated on its progress and its efforts to expand employment opportunities for Class Members.

### PUNS/ICF/DD Class Members-Ligas Services List "Hold" and Removal

#### Removal

Class Members in ICF/DDs and individuals selected from the PUNS list for services are still subject to removal from the Ligas Services List for a number of reasons. Removal of

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<sup>6</sup> The links to the sample downsizing agreements are: <http://www.dhs.state.il.us/page.aspx?item=85069> and <http://www.dhs.state.il.us/page.aspx?item=85081>.

a Class Member from the Ligas Services List does not necessarily result in removal from the PUNS list, nor does it prevent the individual from seeking other waiver-based services or expressing an interest to become a Class Member in the future. Removal is warranted under the following circumstances:

ICF/DD Class Members:

- Individuals who are ineligible for services will be removed from the Active/Confirmed list. Reasons for ineligibility include death, relocation out of state, clinical ineligibility, and inability to financially qualify for Medicaid<sup>1</sup>. For those who are deemed ineligible, they will be given timely notice on how to appeal that determination and if the eligibility is overturned, they will be returned to the Active/Confirmed list.
- Individuals who do not meet Ligas Class Member requirements will be removed from the Ligas Services List but will remain on the PUNS waiting list.
- Declined Community-Based services, demonstrated by completion of a written document stating their or their guardian's preference to remain in the ICF/DD. Individuals and their guardians are free to change their minds and make a Current Record of their interest to receive Community-Based Services or placement in a Community-Based Setting.

PUNS Class Members:

- Ineligible for services. Reasons for ineligibility include but are not limited to death, relocation out of state, clinical ineligibility, and inability to financially qualify for Medicaid<sup>7</sup>. Ineligibility will also result in removal from the PUNS list, but removal in certain of these circumstances is subject to the appeal rights of the individual.
- Failure to meet Ligas Class Member requirements (but may remain on the PUNS waiting list).<sup>8</sup>
- Decline of services, in which the individual/guardian may affirmatively request to be placed in the "Planning" category of need on PUNS.
- Decline of services (although Ligas services may be re-initiated during the 3 months after the date services were declined). Failure to re-initiate services within 3 months of the decline of services will void the PUNS selection and the

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<sup>7</sup> Individuals and their guardians will be afforded a full 9-month time period (with extensions as needed for good cause) to become eligible for Medicaid.

<sup>8</sup> Class Members must be 18 years of age or older and residing in either a family home or an ICF/DD of 9 or more individuals. State Operated Developmental Centers, SNF-Peds, Skilled Nursing Facilities, residential schools or correctional facilities are among the settings that are not eligible settings. Class Members retain their Class Member status post-transition to a CILA. During FY21, DDD will continue to explore how best to address concerns regarding individuals in SNF-PEDS and ensuring they have the ability to seek Community-Based Services.

individual will remain in the “Planning for Services” (formerly “Planning”) PUNS category.

- Decline of services and request to be removed from PUNS will result in the removal of the individual from the Ligas Selection List and the PUNS database. This is also subject to the 3-month limit to re-initiate services, after which the PUNS selection will no longer be valid and re-enrollment in PUNS will be required.
- Refusal to complete or failure to cooperate in the assessment process. This includes but is not limited to any of the following:
  - Failure to either make contact with or respond to inquiries (telephonic, written or other) from the assigned ISC Agency within the initial 6-month period following the mailing of the selection letter;
  - Failure to engage in and begin the assessment process within the initial 6-month period;
  - After obtaining an extension on the initial 6-month application deadline, failure to complete the assessment and obtain an eligibility determination within 9 months from the date of mailing of the PUNS selection letter. Extensions will be granted upon a showing of continued engagement with the ISC Agency and for extraordinary circumstances.

#### Hold List

DDD continues to monitor Class Members who are on the “Hold” list, in which certain individuals selected from ICF/DDs or the PUNS list who are not yet ready to initiate services or who are unable to complete the process are given a temporary “Hold” period during which they may still exercise the benefits arising from their selection. A Class Member may remain on “Hold” for a maximum of two years, during which time the ISC Agency will contact the individual once every six months. During the two-year period, the individual/guardian may, at any time, choose to continue with the waiver process to obtain services. However, if the individual fails to take any action in furtherance of service initiation, at the end of the two-year Hold period the individual’s PUNS selection will be invalidated.<sup>9</sup> At that point, the individual will be able to enroll on PUNS as a new enrollment. Any future PUNS selection will be based on the new enrollment date.

Individuals may be placed in the “hold” category for the following reasons:

- Seeking services from particular provider(s);
- Awaiting opportunity to move with particular peers;
- Inability to decide on a provider;

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<sup>9</sup> Individuals on the Hold list will be notified at the 18-month point that absent further action, they will be removed from Hold in six months (at the two-year mark) and be removed from PUNS. However, if the delay in taking action within the two-year period is through no fault of the individual or his/her guardian, the Hold period may be extended on a case-by-case basis.

- Deciding between home-based and CILA services;
- Determining whether to proceed with waiver services;
- To allow time to address medical or personal matters (including but not limited to rehabilitation, medical procedures, family emergencies or other matters that may delay decisions as to services);
- Other reasons with approval from DDD.

Individuals on Hold are not counted toward ICF/DD transitions or Reasonable Pace benchmarks.

Monitor’s Concerns Regarding Capacity Development

In the Seventh Annual Report, the Monitor reiterated many of the concerns contained in the Fourth, Fifth and Sixth Annual Reports, and again found the Defendants out of compliance with respect to resources and capacity, while noting progress in a number of areas. (See Seventh Annual Report<sup>10</sup>). The Report identified issues that directly impact the Consent Decree’s implementation, and again largely focused on rates and staffing concerns resulting in vacancies and high turnovers for providers. The Defendants continue to be out of compliance based on the Court’s orders of August 11, 2017 and June 6, 2018, but significant process has been made and regularly reported to the Court.

As of the date of this Implementation Plan, a number of actions have been taken in an effort to bring the Defendants into compliance. This includes, but is not limited to the following:

Rate Increases: The State has made efforts to provide increases to rates over the last several years; a chart of the increases is below. The FY20 budget, passed by the General Assembly and Governor, included a 3.5% rate increase for ID/DD providers. Additionally, the State increased DSP wages to \$13.00 per hour, allowing for increases of \$0.58 per hour in Chicago and \$0.62 per hour in the rest of the state, to address minimum wage cost pressures in Chicago and statewide. For FY21, the General Assembly’s passed budget included an additional \$1.00 per hour increase as of July 1, 2020 (bringing the rate to \$14.00 per hour), and a \$0.50 per hour increase as of January 1, 2021 (which will bring the rate to \$14.50 per hour).

Fiscal Year	Funding Increase - HCBS	Funding Increase - LTC	Implementation	Effective Date
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<sup>10</sup> The link to the Seventh Annual Report of the Court Monitor is: [https://www.dhs.state.il.us/OneNetLibrary/27897/documents/DD%20Reports/Ligas/SeventhAnnualReportoftheMonito\\_in\\_Ligas3.120.pdf](https://www.dhs.state.il.us/OneNetLibrary/27897/documents/DD%20Reports/Ligas/SeventhAnnualReportoftheMonito_in_Ligas3.120.pdf).

2018	\$0.75/hour wage increase	\$0.75/hour wage increase	Pass-through to front-line staff (HCBS); pass-through to staff through program & support components of rate (ICF)	08/01/2017 (Both)
2019	\$0.50/hour wage increase; additional \$0.04 for Chicago	\$0.50/hour wage increase	Pass-through to front-line staff (HCBS); pass-through to staff through program & support components of rate (ICF)	10/01/2018 (Both)
2020	3.5% rate increase	3.5% rate increase	Rate increase/COLA	07/01/2019; 08/01/19 for LTC
2020 (mid-year, non-legislative)	\$0.58 & \$0.62/hour wage increase	\$0.24/hour wage increase	Wage increase (not required to be pass-through)	01/01/20; est. 06/01/20 for LTC
2021	\$1.00/hour wage increase \$0.50/hour wage increase	\$1.00/hour wage increase \$0.50/hour wage increase	\$0.80/hour and \$0.40/hour, respectively, required to be pass-through to non-exec staff	TBD (requesting 07/01/20 and 01/01/21, respectively)

- Compliance Monitoring: During FY20, a Compliance Survey was conducted on a statistically significant (n=225) number of Class Members who had transitioned into CILA settings. This survey measured compliance in seventeen (17) separate domains. The results of this survey were included in the Monitor’s Seventh Annual Report. There are a number of areas in which the results were not in the range to meet compliance standards. The DDD will engage in a number of measures to improve compliance in these areas, which will be addressed in Section XIII, *supra*.
- Rates Oversight Committee and Development of a Revised Rate Methodology: The Rates Oversight Committee began its work in FY19. On November 13, 2019, the Committee issued its final report and recommendations<sup>11</sup>. Per the recommendation of the Committee, the Division

<sup>11</sup> The link to the Rates Oversight Committee final report and recommendations is: <https://www.dhs.state.il.us/page.aspx?item=120946>.

hired an independent rates consultant to review the recommendations and develop a rate methodology, wages and concurrent policies for the DD service system. A contract is currently in effect with Guidehouse (formerly Navigant Consulting) to do this work. Since the release of the final report, Guidehouse has been reviewing the recommendations and developing rates and policies for the Oversight Committee to review and provide input around. The final rate methodology and policies are anticipated to be complete by November 2020. IDHS has approved an extension for Guidehouse's work which was delayed due to the COVID-19 emergency. Once Guidehouse's work is complete, DDD will work with IDHS leadership, including IDHS fiscal, the Governor's Office, and the Governor's Office of Management and Budget, regarding the FY22 budget and DDD's needs. DDD and IDHS Legislation will then work with the General Assembly to discuss budgetary and non-budgetary (substantive legislation) issues to be addressed in the 102<sup>nd</sup> General Assembly.

Per the request of the Monitor and Parties, the following represents additional activities currently underway within the Division of Developmental Disabilities. These activities, while related to certain of the Monitor's concerns, are not specific to the Ligas Decree, as they are much broader and impact all individuals who receive services under the DD Waiver. As such, the State does not consider them to be a part of, nor governed by either the Ligas Consent Decree or the Implementation Plan, but do agree that these activities provide a benefit to Class Members. The State makes no representations as to the end result from these activities but will continue to update the Parties and Monitor on progress and developments in these areas as they occur, especially as they impact Ligas Class Members. Plaintiffs and the Court Monitor disagree with the State as to the impact the Ligas Decree and Implementation Plan have on these activities, but as the parties do not disagree on the nature of these activities, the issue need not be resolved at this time.

- In FY20, the Division has worked to expand the Short-term Stabilization Homes (SSH)<sup>12</sup> under the adult Medicaid Waiver from the initial four homes, to eight homes. During FY21, the two providers under contract with the Division for the existing four homes will each open two new homes: two in the greater Chicagoland area and two downstate. Each home can serve four individuals, and the expansion will increase capacity from sixteen (16) to thirty-two (32). SSH homes provide temporary stabilization services due to extraordinary behavior issues. The homes are equipped with high staffing and oversight ratios, as well as the necessary staff or consultants to address individual behavior and medication needs. Transition planning for post-stabilization placement is ongoing throughout an individuals' tenure at an SSH, with the primary goal, if feasible, that the individual return to their own/prior home. However, these transition plans are fluid and depend on the progress the individual makes toward stabilization.

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<sup>12</sup> Prior Implementation Plans included plans for Long-Term Stabilization Homes. However, at the current time, there is not an available appropriation in the FY21 budget to support development.

- The Division continues to provide increased Behavior Therapy hours of up to 104 annually to individuals under the adult Waiver. The Rates Oversight Committee work included a sub-committee on Behavioral Services and Supports. That sub-committee discussed Behavior Therapy as part of its work, and recommendations were included in the Oversight Committee's final report. Behavior therapy is currently under review by Guidehouse as part of the development of the rate methodology and associated policies.
- Waiver Employment and Developmental Training/Community Day Services. The Rates Oversight Committee work included a sub-committee on Employment and Developmental Training/Community Day Services (CDS). Recommendations were included in the Oversight Committee's final report, which are currently under review by Guidehouse as part of the development of the rate methodology and associated policies.
- The quality improvement system for the Waiver is described in Appendix H of the Waiver. Performance measures are outlined throughout the Waiver itself. The Bureau of Quality Management regularly completes on-site reviews of service delivery for individuals served in the Adult DD Waiver. While the waiver quality reviews are not specific to *Ligas* Class Members, many *Ligas* Class Members go through the review process each year by virtue of being in the waiver program. BQM cites any deficiencies noted, requires corrective action plans to address those deficiencies and follows-up on the plans to ensure they were appropriately implemented. Defendants will share *Ligas* Class Member reviews with the Court Monitor and Class Counsel within 60 days of completion of the FY20 reviews.

#### Housing Options for Class Members

The Illinois Department of Human Services believes that persons with disabilities can live fully integrated within their community of choice with appropriate services and supports within affordable supportive housing options, whether scattered site or within small single site supportive housing buildings. This not only complies with federal CMS Home and Community Based Services new regulations defining home and community and the Olmstead mandate but is cost effective and meets the desires of persons with disabilities.

As such, in addition to the typical community settings of HBS and CILA, DDD is also restarting the collaboration with the DHS Statewide Housing Coordinator and the Illinois Housing Development Authority to make supportive housing options available to eligible *Ligas* Class Members. Class Members are eligible for Statewide Referral Network (SRN) and Section 811 Project-Based Rental Assistance (PBRA) units (depending on income), which are affordable studio, one and two-bedroom units available across the state. These units are individually controlled, with the tenant or his or her guardian having an individually controlled lease and rights of tenancy.

To provide further access to these and other affordable housing resources (including Public Housing Authorities, Low Income Housing Tax Credits, etc.), DDD continues to provide guidance/communication to its providers and ISC agencies so services further support living in supportive housing, and will be providing additional training, as needed, during FY21 on Supportive Housing. People who obtain Supportive Housing will have access to the same range of CILA services as people living in other types of housing.

CILA services will be based on need, not on whether the individual resides in an agency-owned house, a rented house, or a Supportive Housing apartment. CILA can include anything from a small number of Intermittent CILA hours per day to 24/7 support. For example, individuals with mobility issues often have no accessible options other than Supportive Housing and yet may still need 24-hour services, not simply Intermittent CILA

In addition to the above, ICDD, who initiated the Working Group to Implement Supportive Housing for persons with developmental disabilities (WISH-DD), will work with DDD on other supportive housing measures to ensure Class Members as well as the ID/DD community overall has access to and understands how to access supportive housing.

Defendants will keep the Monitor and Class Counsel regularly updated on its progress in developing housing for Class Members.

## **Section V. Community-Based Services/Placement for Individuals Residing in ICFs/DD**

*Paragraph 17. ...within six (6) years after Approval of the Decree, all Class Members residing in ICFs-DD as of the date of Approval of the Decree (regardless of when in this timeframe the Class Member affirmatively requested placement in a Community-Based Setting) will transition to Community-Based Settings consistent with their Transition Service Plan, if, at the time of transition, the Class Member requests placement in a Community-Based Setting...*

As of June 30, 2017, all known ICF/DD Class Members who indicated a desire to move, were to have been moved to a Community-Based Setting. As of June 1, 2020, there were 1558 Class Members residing in ICF/DDs on or prior to June 15, 2011. Of these, 1460 Class Members residing in ICF/DDs have received award letters for Waiver services, and 1459 have moved to their community-based Waiver setting.

As of June 1, 2020, there were 96 Class Members in ICF/DDs who have not yet received award letters, including 18 on Hold. Of those remaining 78 Class Members, 62 are individuals under the guardianship of the Office of State Guardian, 18 of whom are on Hold. DDD will review the data on the OSG wards who have yet to receive award letters and who are not on Hold to identify any patterns regarding transition activities and will report to the Plaintiffs and Monitor on their findings. The Monitor will review the data on the OSG wards who are on hold.

The previous process of the DDD monitoring ICF/DD transitions through monthly contact and an internal database ceased in 2017. The DDD now monitors all Class Members (ICF, PUNS, etc.) including individuals transitioning from ICFs to community-based settings or services, through an internal database. Updates are provided to the DDD staff monthly through the ISC agencies.

In addition to the activities by State staff, the PAS/ISSA monitor the individual's successful adjustment to the new services by completing four weekly visits with the Class Member during the first month and quarterly visits thereafter. In the event the ISSA identifies problems, it shall take steps to resolve issues locally and refer matters as needed to the DDD per the Problem Resolution Protocol within the ISSA Guidelines. It may also request more hours for additional visits per the Guidelines.

#### Individuals who Decline Community-Based Services to Remain in ICF/DD

Any individual residing in an ICF/DD as of June 15, 2011 who did not join the class by June 15, 2017 is no longer automatically eligible for Ligas-based services but may choose to seek Community-Based Services through enrollment on the PUNS database.

### **Section VI. Transition Planning**

*Paragraph 11. The Transition Service Plan shall describe the services the Class Member requires in a Community-Based Setting or through Community-Based Services; where and how such services can be developed and obtained; the supports and services the Class Member will need during his or her transition to a Community-Based Setting; and a timetable for completing that transition.*

*Paragraph 12. The Transition Service Plan shall be developed by a Qualified Professional in conjunction with the Class Member and, where one has been appointed, the Class Member's legal guardian, and, where appropriate, the Class Member's family members, friends and support staff who are familiar with the Class Member.*

*Paragraph 13. The process for developing a Transition Service Plan shall focus on the Class member's personal vision, preferences, strengths and needs in home, community and work environments and shall reflect the value of supporting the Class Member with relationships, productive work, participation in community life, and personal decision-making.*

*Paragraph 14. All services and supports in the Transition Service Plan must be integrated into the community to the maximum extent possible, consistent with the choices of the Class Member and the Class Member's legal guardian.*

*Paragraph 15. The Transition Service Plan shall not be limited by the current availability of services, provided, however, that nothing in this paragraph obligates Defendants to provide the types of services beyond those included in the Waiver and/or the State Plan.*

The Ligas Transition Service Plan was replaced by the Person-Centered Planning process which includes the completion of a Discovery Tool, Personal Plan Tool, and Implementation Strategy Tool as of January 1, 2018. This new process was part of the Life Choices Initiative and meets the requirements of the Federal Medicaid requirements for person-centered planning. The tools and guidelines/procedures can be found at <http://www.dhs.state.il.us/page.aspx?item=96986> and a summary of the process is as follows:

- The process begins with the Discovery Process, which is designed to gather information about a person's preferences, interests, abilities, preferred environments, activities, and supports needed. The ISC agencies are responsible for facilitating and documenting information resulting from the Discovery process.
- Once the Discovery Process is completed, a Personal Plan is created. The Personal Plan is the single, comprehensive personal vision for a person's life. This document focuses on the individual's strengths, preferences, needs and desires. The ISC agencies are responsible for developing the Personal Plan in conjunction with the individual, guardian, family, and providers.
- The final step is creation of the Implementation Strategy, in which information identified in the Personal Plan is addressed. An Implementation Strategy details the supports and services that will be provided on a day-to-day basis to help the person achieve outcomes laid out in the Personal Plan. Provider agencies that are providing services to the person, are responsible for developing the Implementation Strategy with the individual/family/guardian.
- See Page 24, Category #1, regarding the findings within the Ligas Compliance Tool for the Person-Centered Planning process.

## **Section VII. Waiting List for Community Services and Placement**

*Paragraph 22(d). Within two (2) years after Approval of the Decree, Defendants shall provide, in accordance with the Class Members' Transition Service Plans, appropriate Community-Based Services and/or placement in Community-Based Settings for at least 1,000 Waiting List Class Members who are selected from the Waiting List...with these Class Members served in order of priority. In each of the third, fourth, fifth and sixth years following Approval of the Decree, Defendants shall serve at least 500 additional Waiting List Class Members who are selected from the Waiting List, again in order of priority.*

*Paragraph 23. All Class Members who are on the Waiting List after the end of the sixth year following Approval of the Decree shall receive appropriate*

*Community-Based Services and/or placement in a Community-Based Setting, such that they move off the Waiting List at a reasonable pace...*

Over the first six years of the Decree, the DDD was to serve 3,000 individuals under the Medicaid Waiver from the waiting list. DDD met and exceeded the requirement to serve 3,000 waiting list Class Members within this first six years.

#### Reasonable Pace

As part of the FY20 Implementation Plan, the parties agreed on a schedule for individuals to receive services from the PUNS list at a “reasonable pace.” This multi-year plan has an end goal such that by FY2025, the maximum wait time for the PUNS list will be 60 months (5 years)(measured as of the date of enrollment or the individual’s 18<sup>th</sup> birthday if they were enrolled prior to age 18).

PUNS selections will be conducted annually. Approximately six months prior to the beginning of each fiscal year, individuals and/or guardians who are anticipated to be in the selected group will be provided notification of their likely upcoming selection to encourage early planning. In addition to the annual PUNS selection, if, six-months post selection, the responses to the selection letters are below the anticipated targets, the Division will conduct a second PUNS selection to fill the unused targeted capacity.

In Fiscal Years 21 through 25, the Division agrees to serve a minimum of 630 individuals from the PUNS list each year. However, for this period, individuals selected from the PUNS list who were receiving Home-Based services at the time of selection and who move to CILA services will not be counted toward the 630 minimum. In addition, the Division agrees to serve an average minimum of 630 individuals from the PUNS list for the years FY20-FY22, such that no fewer than 1,890 individuals will be served for that time period.

FY21: Initial Yearly Selection will be based on a maximum wait of 70 months;  
FY22: Initial Yearly Selection will be based on a maximum wait of 64 months;  
FY23: Initial Yearly Selection will be based on a maximum wait of 63 months;  
FY24: Initial Yearly Selection will be based on a maximum wait of 61 months;  
FY25 Initial Yearly Selection will be based on a maximum wait of 60 months.

It should be noted that while the DDD is making every effort to continue to serve individuals selected from PUNS, due to the COVID-19 pandemic and associated state-wide restrictions on providers, transitions to CILA placements have been severely limited. As it is uncertain when full provider operations will resume, to the extent Reasonable Pace benchmarks are adversely affected, Defendants will confer with Plaintiffs and the Court Monitor on how to address.

Additionally, DDD will issue an Information Bulletin to provide clarity to both families and ISCs regarding the two PUNS categories, the process for moving from “planning” to

“seeking,” and how those impact selection times under the Reasonable Pace plan. The Information Bulletin will be published by October 1, 2020.

### Movement Between Waiver Services

During FY20, the Division worked with the ISCs to survey current recipients of Waiver services who were also enrolled on the PUNS List as actively seeking services, to determine how many would prefer a change in the type of service; i.e. from HBS to CILA, CDS to HBS, etc., in FY21.

As a result of this survey, DDD will be implementing a policy to guide recipients, family members and guardians on changing their level of service. The recipient must work through their ISC agency to amend their Personal Plan to reflect the desired changes and preferences, and the ISC agency will then work with DDD to obtain a funding change. Once the funding change has been approved, the ISC and individual/family/guardian will work to identify a provider for the new services. A draft of the policy will be provided to the Parties and Court Monitor by August 15, and the target date for implementation of the policy is September 30, 2020. The Parties have agreed that current recipients of Waiver services who receive a different type of service under this new policy will not be counted with respect to the Consent Decree’s Reasonable Pace requirements if they move from HBS to CILA. However, individuals who currently do not receive either HBS or CILA and move into one of those services, and who have not yet been selected from PUNS, will be counted toward Reasonable Pace targets (i.e. moving from Community Day Services to HBS or CILA).

## **Section VIII. Community Crises**

*Paragraph 21(c). Defendants shall ensure that all Class Members who are determined to be in a situation of Crisis, and who request to receive Community-Based Services and/or placement in a Community-Based Setting, receive such services and/or placement in such setting expeditiously.*

The ISC agencies continue to submit requests for services from individuals in crisis situations, and the DDD will continue to process these requests, using existing criteria available on the DDD website<sup>13</sup>. These requests are separate from and not included in service totals for Reasonable Pace or Movement Between Waiver Services. The DDD continues to work to ensure individuals are served expeditiously, viewed as receiving some supports or services within a 24 to 72-hour period after an individual’s crisis status is confirmed to ensure the individual’s safety.

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<sup>13</sup> The link to the crisis criteria is:

<http://www.dhs.state.il.us/OneNetLibrary/27897/documents/DD%20Reports/Community%20Emergency%20Criteria%20-%20Adults.pdf>.

With respect to the Monitor's concerns reflected in the Fourth, Fifth, Sixth and Seventh Annual Reports regarding safety plans for those individuals in Crisis, DDD will undertake a review of the process for development of safety plans to identify areas in need of improvement, and work with the ISC agencies and providers to ensure proper safety plans are both in place and properly utilized. DDD will report on the outcome and recommendations of the review. DDD will report on the review and any related recommendations by December 31, 2020.

## **Section IX. Appeal Process**

*Paragraph 24. Any Class Member who disputes a decision by Defendants or a Community Service Provider regarding eligibility for, or delivery of, Community-Based Services or placement in a Community-Based Setting shall, pursuant to governing law, have the right to appeal or seek administrative or judicial review of such decisions through Defendants' existing Fair Hearings process (as set forth in 89 Ill.Adm.Code Part 120) or as otherwise provided by law. Class Members also may avail themselves of any informal appeal process that currently exists.*

Individuals may appeal any denial, suspension, termination, or reduction of Home and Community-Based Waiver Services. The appeal process, including time frames, is described in Title 59, Chapter 1, Part 120<sup>14</sup>. Individuals are informed of this right to appeal through the use of Form IL462-1202, Notice of Individual's Right to Appeal, available on DDD's website<sup>15</sup>. Individuals are also informed of their right to appeal a determination of ineligibility via the DDPAS-10 Form, available on the DDD website<sup>16</sup>.

DDD remains in compliance with the appeal requirements of the Decree.

## **Section X. Resources Necessary for Implementation**

*Paragraph 5. Annual budgets submitted by Defendants on behalf of their agencies shall request sufficient funds necessary to develop and maintain the services, supports and structures described in the Decree, consistent with the choices of Individuals with Developmental Disabilities, including Class Members.*

Each year of the Consent Decree, the DDD and the DHS Budget Office will prepare annual proposals for inclusion in the Governor's Introduced Budget for the funds necessary to carry out the provisions of the Decree. These proposals will include items

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<sup>14</sup> The link to Rule 120 is: <http://www.ilga.gov/commission/jcar/admincode/059/05900120sections.html>.

<sup>15</sup> The link to Form IL462-1202, Notice of Individual's Right to Appeal is: <http://www.dhs.state.il.us/OneNetLibrary/27897/documents/Forms/IL462-1202.pdf>.

<sup>16</sup> The link to the DDPAS-10 Form is: <http://www.dhs.state.il.us/OneNetLibrary/4/documents/PAS/DDPAS100111.pdf>.

that are currently funded and must be maintained as well as items that require new funding, including additional funding identified in the new rate methodology currently under development and any other funding implicated by policies identified in the Rates Oversight Committee not addressed by the new rates. Further information can be found in the Ligas 6 Month Data Report dated 02/25/2020<sup>17</sup>

### Appropriations

The DDD's budgets since Fiscal Year 12 combined the major appropriation line for community-based services and ICF/DD services into one line. This enables the DDD to redirect resources, if appropriate, as individuals and providers make future choices regarding service provision. However, DDD maintains sufficient records to enable the Monitor to determine whether the State is fulfilling its obligations under Paragraph 4 of the Decree, including its obligation to provide funding sufficient to meet the needs of those who choose to live in ICFs/DD and to ensure that such resources are not affected by the State's fulfillment of its obligation to provide Community-Based Services or Settings to those who choose those service options.

Annually, per the deadline established by the Governor's Office of Management and Budget, the DDD will calculate and submit details of needed resources for consideration for inclusion in the Governor's Introduced Budget for the following fiscal year. Each year the needed resources for implementation of the Consent Decree, separate and apart from the maintenance items specified above, will include, at a minimum, funding for:

- Community-Based Services and Community-Based Settings, both new funds for those beginning services and annualized funds for those who began services in the prior year;
- Assessments;
- Special rates for ICFs/DD voluntary closure agreements; and
- Contractual consultants and staff.

The proposed budget for *Ligas* implementation will be annually presented to the Parties and Intervenors. Budget information is included in the data reports.

The Ligas budget for FY21 was \$295M which includes PUNS placements and ICF/DD transitions (both current and prior year placements) and Ligas staffing/administration/contract costs. These anticipated costs assume, based on prior years' data, that 80% of new PUNS placement will choose AHBS and 20% will choose CILA. The anticipated FY21 costs also represent a significant increase from FY20, where estimated Ligas costs were \$266.5M.

The FY20 budget included a 3.5% Cost of Living Adjustment (effective 07/01/2019) as well as an increase for direct care staff to \$13.00/hour (effective 01/01/2020). The FY21

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<sup>17</sup> The link to the 12/31/2019 Six-Month Report is: <https://www.dhs.state.il.us/page.aspx?item=125418>.

budget includes a \$1.00/hour increase (effective 07/01/2020 or upon federal approval), and a \$0.50/hour increase (effective (01/01/2021). The wage and rate increase information can be found above, in Section IV, Development of Community Capacity.

Additionally, the FY21 Ligas budget (\$295M) can be offset by a corresponding reduction in the ICF/DD system's liability, due to downsizing and closures, related to Ligas activities. In FY21, the ICF/DD system's liability has decreased by \$74.3M (both current and prior year offsets), related to these ICF/DD capacity reductions. As a result, the "net" FY21 budget for Ligas activities can be reported as \$220.7M (\$295M minus \$74.3M).

#### Federal Approval of Waiver Capacity

Each year, as new enrollment opportunities are made available for individuals, the DDD works with HFS to submit an amendment increasing the capacity of the adult Waiver<sup>18</sup>, as needed.

The current adult Waiver capacity is 23,049.

### **Section XI. Interagency Agreements**

Interagency agreements, necessary to carry out the provisions of the Decree, are in place among the Departments. Specifically, there remain interagency agreements among the Departments of Children and Family Services, Healthcare and Family Services, Human Services, and Public Health that addresses the interactions involving developmental disabilities Medicaid programs. This agreement is available upon request from the DDD.

DDD continues to work toward a Memorandum of Understanding ("MOU") with the Division of Rehabilitation Services as required by the Workforce Innovation and Opportunity Act (WIOA) specific to employment services. DDD anticipates finalizing the MOU with DRS in FY21. DDD and DRS will finalize the MOU by September 30, 2020. At this point, the DDD does not anticipate the need for any other new interagency agreements to implement the Decree.

### **Section XII. Process for Plan Reporting and Modification**

*Paragraph 28. The Implementation Plan shall be updated and amended annually, or at such earlier intervals as Defendants deem necessary or appropriate...*

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<sup>18</sup> The link to the adult DD Waiver is:

<http://www.dhs.state.il.us/OneNetLibrary/27896/documents/Reta/AdultDDR renewalApproved7117.pdf>.

*Paragraph 33. ...Not less than every six (6) months, Defendants shall provide to the Monitor, Plaintiffs, Class Counsel, Intervenors and Intervenors’ Counsel and make publicly available, a detailed report containing data and information sufficient to evaluate Defendants’ compliance with the Decree and Defendants’ progress toward achieving compliance. Prior to the first report, the Parties and the Monitor will agree on the data and information that must be included in such reports...*

Pursuant to Paragraph 28 of the Decree, the DDD will review the Implementation Plan on an annual basis. This Implementation Plan contains the recent, agreed-upon revisions for FY21.

Per Paragraph 33 of the Decree, the DDD will report data and information regarding its progress toward compliance with the provisions of the Decree, including data regarding Reasonable Pace and Movement Between Waiver Services. The Parties, Intervenors, and Monitor agreed to a standard format for these data reports, which are now being produced twice per year by February 15<sup>th</sup> and August 15<sup>th</sup>. These reports are being posted on the DDD’s website as they are available. The reports will include COVID-19-related data.

### **Section XIII. Compliance Survey Results**

As noted in Section IV, to determine whether Class Members were receiving services as required under the Decree as well as their Personal Plan documents, a survey was conducted of 225 Class Members residing in CILA settings. The seventeen (17) domains are identified below, along with a brief summary of the findings, and actions that will be taken during FY21 to bring Defendants into compliance, measured at 85% or above (both overall and for “red flag” items). It should be noted that a significant number of these domains are impacted by the Rate Oversight Committee recommendations, which will be referenced as appropriate.

Cat.	Domain	Overall Compliance	Red Flag Compliance	Deficiencies (NOTE: This is a summary of the deficiencies, and as such, does not include all deficiencies noted.)	Strategies to Address in FY 21
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1	Person-Centered Planning/Measuring Outcomes	46%	41%	<p>Personal Plans: Lack of personal outcomes, preferences, social roles, ability to participate in personal funds management in individual Personal Plans; risks and strategies and safeguards for mitigation.</p> <p>Implementation Strategies: Lack of specification as to what provider is responsible for to mitigate risks, lack of criteria to identify achieved objectives.</p> <p>Reviews of goals and outcomes: Monthly/quarterly reviews needed to track progress, modification where needed when outcomes not achieved.</p>	<p>DDD will review existing Person-Centered Planning information for update (including PCP guidelines).</p> <p>DDD will survey ISCs and providers for their needs/wants as it relates to the PCP process and areas of need for training and/or guidance.</p> <p>DDD will provide training to all ISC agencies and provider agencies on the PCP process. This training will focus on compliance measures/deficiencies, the Discovery Tool, Personal Plan, and Implementation Strategies as well as any areas determined through the above-mentioned ISC and provider surveys.</p> <p>DDD will develop a DHS-approved Implementation Strategy template for provider use including guidance for documentation expectations.</p>
2	Independent Service Coordination	47%	44%	<p>Lack of competency in assisting in development of Personal Plan.</p> <p>Untimely completion of funding documents.</p> <p>Failure to update Personal Plan as needed.</p> <p>Lack of monitoring to ensure services are both received and assisting individual to achieve outcomes.</p> <p>Lack of contact with family/guardian.</p> <p>Lack of appropriate case management services.</p> <p>Lack of assistance in explaining appeal process.</p>	<p>As laid out in Category 1 (above), DDD will develop and provide new Person-Centered Planning training for ISC agencies. Prior to training, DDD will survey ISC agencies to understand the areas of training need.</p> <p>DDD will review existing processes and procedures for ISCs and work with them to understand existing gaps in their training. Included in this process is reviewing and potentially addressing/clarifying the following compliance measures/deficiencies: frequency of ISC visits and ensuring ISCs including providers in the discovery and PCP process.</p>

3	Safety	83%	74%	<p>Risk Mitigation: Action has been taken to address any reported concerns from family/guardian/individual; and any concerns in ISC monitoring reports have been promptly and appropriately addressed.</p> <p>Environmental Observations: Home furnishings reflect the individuals; personal possessions, preferences, identified throughout home; individuals may move freely throughout home (no staff-only areas unless live-in).</p>	<p>DDD will review the processes currently in place for addressing and resolving health, safety, and environmental concerns between the ISC and provider as well as any concerns reported by the family, guardian, or individual.</p>
4	Staff Presence, Conduct, Competence	77%	85%	<p>Lack of adequate staff to provide services/supports in individual's Personal Plan.</p> <p>Lack of documentation of services provided as documented in Implementation Strategies/Personal Plan to achieve desired outcomes.</p>	<p>DDD will develop and conduct Person-Centered Planning trainings (online and in-person) for provider agencies including documentation expectations (see Cat. 1 above).</p> <p>Staff wages/rates are currently under review by the Ligas Oversight Committee's rate consultant (Guidehouse).</p>
5	Employment/Day Activities/Community Integration	31%	26%	<p>Lack of opportunities for competitive employment.</p> <p>Lack of community inclusion opportunities in day programming.</p> <p>Lack of adult education opportunities.</p> <p>Lack of encouragement and support for community access and meaningful activities based on individual preferences.</p>	<p>DDD will work with providers on the reopening of CDS (Sept. 1) to allow for innovation via reinvention.</p> <p>DDD will issue guidance via IB on at-home day services (37U). The IB will include the Compliance Tool deficiencies (currently under development) and the recommendation that providers create a database of their Waiver recipients on their personal interests.</p> <p>DDD will develop training for provider agencies and ISC agencies to educate both on Supported Employment.</p> <p>DDD will hire an Employment position within the Division that will help build provider capacity.</p> <p>Some potential strategies, including rates and staffing for 31C (CDS-Community) are currently under review by the Ligas Rates Oversight Committee's rate consultant (Guidehouse).</p> <p>For additional strategies, please refer to the Employment subsection under Section IV.</p>

6	Leisure, Recreation, Social Relationship	55%	48%	<p>Individuals not maintaining desired role in community.</p> <p>Lack of encouragement to foster/maintain relationships.</p> <p>Lack of participation in desired experiences and activities.</p> <p>Lack of opportunity to attend religious services as often as desired.</p>	<p>DDD will work with providers on CDS reopening to address these deficiencies as well. This includes DDD guidance.</p> <p>DDD will explore additional training/guidance needed on relationships that could be provided by an outside, advocacy organization. Provider organizations will be included in any of these trainings.</p> <p>DDD workgroup will work to implement the SELN recommendations.</p> <p>As was mentioned in Section 5 (above), the Rates Oversight Committee is reviewing 31C rates and staffing</p>
7	Personal Funds Management	78%	70%	<p>Lack of access to personal spending money.</p> <p>Access to and choice on spending restricted without approval of a Human Rights Committee.</p>	<p>DDD will issue an IB on appropriate holding of individual's personal funds.</p> <p>Training for individuals to promote and increase independence in management of personal funds will be included in the rights/autonomy training (See Cat. 6 above and Cat. 17 below).</p> <p>DDD will review the Human Rights Committee training for any updates/changes.</p>
8	Transportation	32%	29%	<p>Lack of access to varying modes of transportation and associated funding.</p> <p>Barriers to preferred access has been addressed by team for supports</p>	<p>Transportation Rates are currently under review by the Ligas Oversight Committee's rates consultant.</p> <p>DDD will continue reviewing existing transportation structures and concerns including public transportation where appropriate.</p>
9	Health Care	79%	75%	<p>All recommended medical/nursing care not received, including preventative care, annual dental exams.</p> <p>Unstable or uncontrolled seizure disorders either not evaluated by neurologist or recommendations not implemented.</p> <p>Recommended health services and supports not timely completed/missed appointments.</p>	<p>DDD will issue IB outlining healthcare expectations and how services should be documented. BQM audits will check these areas specifically.</p>

10	Vision, Hearing, Sensory Supports and Services	66%	67%	<p>Visual, auditory impairments not timely evaluated.</p> <p>Individuals not supported in use and care of eyeglasses or hearing aids.</p> <p>Lack of sign language trained staff.</p> <p>Lack of orientation/mobility training.</p> <p>Lack of consistent use of adaptive devices.</p> <p>Lack of timely evaluations for sensory deficits/implementation of interventions.</p>	<p>DDD will issue IB outlining healthcare expectations and how services should be documented including vision, hearing, and sensory supports and services.</p> <p>DDD will review existing staff trainings around such items as the use of adaptive devices, mobility training, and sign language.</p>
11	PT/OT/SLP/Communication Supports and Services	30%	29%	<p>Lack of current OT/PT/Speech evaluations.</p> <p>Lack of written instructions for staff to implement therapies.</p> <p>Lack of consistent implementation of services.</p> <p>Lack of documentation towards goals and objectives.</p>	<p>DDD will issue IB outlining healthcare expectations and how services should be documented specific to therapies.</p> <p>DDD will review existing trainings/instructions for staff on documentation and implementation of therapy services and supports. DDD will review availability of these services.</p>
12	Adaptive Equipment and Assistive Technology	60%	60%	<p>Lack of assessments for adaptive technology.</p> <p>Recommended adaptive equipment is not received or available or in good working order.</p> <p>Adaptive equipment not used to aid in community participation, safety, activities of daily living.</p> <p>Staff not competent in use of adaptive equipment.</p>	<p>DDD will continue its Assistive Technology pilot project that began in FY20.</p> <p>DDD will review the existing assessment within the Discovery Tool to determine if more questions/information should be included/gathered.</p> <p>Potential strategies and associated policies are being discussed with the Rates Oversight and rates consultant.</p> <p>DDD will provide training on what is Medicaid-eligible/eligible for Medicaid funding.</p>

13	Dining/Dietary Supports and Services	71%	61%	<p>Lack of assessment for safe dining practices and development of plan/strategies.</p> <p>Lack of specialized dining equipment.</p> <p>Individuals not involved in meal planning.</p> <p>Lack of timely evaluation for unexplained weight gain/loss, GERD, or other dietary conditions.</p>	<p>DDD will issue an IB on proper dietary supports and services, including the deficiencies noted.</p> <p>DDD will review existing trainings on mealtime practices, the appropriate use, storage and replacement of dining equipment, and safe dining practices including recognizing choking and aspiration.</p>
14	Behavioral Supports and Services	53%	54%	<p>Functional Behavioral Assessments not completed, support plan not developed or support plan is insufficient.</p> <p>Staff unaware of how to implement support plan/specific interventions.</p> <p>Lack of documentation of supports/services, and data for outcomes.</p> <p>Lack of review by a Human Rights Committee of any rights restrictions.</p>	<p>DDD will increase trainings around the development and implementation of a behavioral support plan, the use of behavioral services, and the Human Rights Committee.</p> <p>DDD will develop a new review/audit process for the documentation associated with behavioral support hours/behavioral support plans and include guidance on what that should look like/include.</p>
15	Mental Health Supports and Services	63%	64%	<p>Lack of current psychiatric evaluation for individuals taking psychotropic medications.</p> <p>Lack of appropriate behavior documentation for tracking symptoms, demonstrating re-evaluations.</p> <p>Lack of tardive dyskinesia screenings documented.</p> <p>Lack of plan to prevent psychiatric admissions.</p>	<p>DDD will issue an IB on provision of mental health supports and services, necessary documentation, psychotropic meds, psychiatric assessment, psychiatric symptom tracking, access to crisis care, and tardive dyskinesia screenings.</p>

16	Protection from Harm	71%	71%	<p>Lack of training and information on abuse/neglect and how to report.</p> <p>Lack of action to address allegations of mistreatment, abuse, or neglect including lack of appropriate follow-up, and implementation of actions to prevent future instances.</p>	<p>DDD will provide enhanced Rule 50 training to provider staff.</p> <p>DDD will issue guidance to ISC agencies, providers and waiver recipients, clarifying rights and reporting mechanisms for claims of abuse/neglect/exploitation/mistreatment.</p> <p>DDD will assess the current incident reporting process and adequacy of referrals for investigations.</p>
17	Rights and Autonomy	61%	59%	<p>Individuals not provided with accessible information on rights, how to make a complaint.</p> <p>Individuals not supported in having visitors, privacy, making scheduling choices, and independent access to home.</p> <p>Lack of documentation in Personal Plan of basis for restrictive interventions (past failed strategies, etc.), and informed consent.</p>	<p>DDD will review the current Rights Statement (ISSA form) for updates/changes.</p> <p>DDD will work with advocacy organizations on rights trainings.</p> <p>DDD will create a portal/receptacle for rights/autonomy resources.</p> <p>DDD will issue a guidance or an IB on individual rights and autonomy and appropriate procedures for making complaints and informed consent.</p>

Continued Compliance Monitoring:

Individual Scorecard Process:

As of September 1, 2020, IDHS has contacted directors of each of the ISC agencies which represent the Class Members involved in the review to distribute the “scorecards,” or results of the reviews. Directors have been asked to identify and provide contact information for a designated staff member who will oversee the process of distributing these scorecards. Each designated staff member will be responsible for distributing copies of the individuals’ scorecards to the provider, Class Member, family/guardian, and will also retain a copy for the ISC Agency’s use.

Provider agencies will be required to submit a Corrective Action Plan to the ISC to address all measures within an individual scorecard rated below the requirement of 85%. In addition, the ISC agency will also be required to submit a Corrective Action Plan to address measures relative to their purview that received a rating below the requirement of 85% within an individual scorecard.

The ISC agency will send all Corrective Action Plans (those developed by the provider and those developed by the ISC) for their assigned Class Members to IDHS. IDHS will

forward to the Court Monitor for approval. The Court Monitor, through IDHS as necessary, will discuss any plans that do not meet the Court Monitor's approval.

ISCs will be required to submit all Corrective Action Plans to IDHS by October 23, 2020; all Plans must be transmitted to the Court Monitor by November 6, 2020. All Plans must be approved by the Court Monitor by January 1, 2021. Providers will be required to submit all Corrective Action Plans to the ISCs by December 31, 2020. ISCs will be required to transmit the Plans to IDHS by January 7, 2021; IDHS will transmit all Plans to the Court Monitor by January 21, 2021. All Plans must be approved by the Court Monitor by April 1, 2021.

The Court Monitor will select a sample of the approved Corrective Action Plans for review and reviewers will be determined by June 1, 2021. The follow-up reviews will begin July 1, 2021 or shortly thereafter. If there are any negative findings from this review, the Court Monitor will work with IDHS to communicate with the ISC or provider.

The Defendants propose that the Parties and Court Monitor confer on modifications to the 2019 Compliance Tool and scorecard. Going forward, continued compliance reviews will be completed utilizing both BQM and independent groups, such as a team selected by the Court Monitor. The next round of full reviews will begin in Fiscal Year 2022. Class Members reviewed in 2019 will not be considered for the next round of full reviews.

#### DDD Compliance Review

DDD intends to continue to track compliance during FY21 through a number of processes. First, BQM's revised monitoring tool will be completed in FY21 with input from the Court Monitor. This revised tool will incorporate some of the questions/data points included in the Ligas Compliance Tool. In addition, DDD will work with the Bureau of Accreditation, Licensure, and Certification (BALC) to include some of the above questions/data points in their surveys.

### **Section XIV. Acronyms**

The following, for reference, is a list of acronyms used throughout this document:

CILA – Community Integrated Living Arrangement  
DDD – Division of Developmental Disabilities  
DHS – Illinois Department of Human Services  
HBS – Home-Based Support Services  
HFS – Illinois Department of Healthcare and Family Services  
ICF/DD – Intermediate Care Facility for Persons with Developmental Disabilities  
ISC – Independent Service Coordination  
ISSA – Individual Service and Support Advocacy

JCAR – Joint Committee on Administrative Rules  
PUNS – Prioritization of Urgency of Need for Services  
RFP – Request for Proposals