

# Ligas v. Hamos Implementation Plan

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State of Illinois

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

**12/15/2011**

The Division of Developmental Disabilities has developed this Implementation Plan to accomplish the obligations and objectives set forth in the *Ligas v. Hamos* Consent Decree. (Case: 1:05-cv-04331; Document No. 549)

## **LIGAS IMPLEMENTATION PLAN**

**December 15, 2011**

### **Section I. Executive Summary**

#### Background of Litigation and Overview of Consent Decree

On June 15, 2011, the State entered into a Consent Decree settling the *Ligas v. Hamos* lawsuit, filed on July 28, 2005 on behalf of individuals with developmental disabilities who were residing in private, State-funded facilities (Intermediate Care Facilities for Persons with Developmental Disabilities or ICFs/DD) of nine or more persons or who were at risk of being placed in such facilities. Plaintiffs sought placement in Community-Based Settings<sup>i</sup> and receipt of community-based services. The Consent Decree, which is available on the Division of Developmental Disabilities' (DDD) website,<sup>ii</sup> identifies two groups of Class Members:

- 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 affirmatively request 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 affirmatively request Community-Based Services or placement in a Community-Based Setting.

The Decree does not force individuals who do not want community-based services or placement to move. Nor does it force providers to close beds or enter into downsizing agreements with the State against their will.

The tenets of the Decree will assist the DDD in expanding its 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 ICFs/DD as of the effective date of the Decree who have affirmatively requested Community-Based Settings will move to Community-Based Settings. Placements must be implemented for one-third of all such individuals every two years of this six-year period. 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 will continue to expeditiously serve all people who meet the established crisis criteria. There will be no limit to the number of people served who meet the crisis criteria.

The DDD will 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 next six years (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 Waiting List shall move off the Waiting List at a reasonable pace.

### Other General Provisions

- Evaluations and Transition Service Plans will focus on individual desires and goals and will not be limited by existing services. All services and supports in the Transition Service Plan must be integrated into the community to the maximum extent appropriate and consistent with the choices of the class member and his or her legal guardian. The State, however, will not be 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 monitor has been 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. It is being developed consistent with Paragraph 26 of the Consent Decree. The DDD has sought and incorporated input received from the Plaintiffs, Intervenors, and other advocates throughout the system. The final Implementation Plan is being filed with the Court on December 15, 2011.

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.

Section II, Development and Maintenance of the Class Member List, describes the compilation of an initial list of class members and the DDD's further development and maintenance of that list. These efforts will be on-going as additional individuals request to be added to or removed from Class Membership as a result of outreach activity.

Section III, Outreach, provides information regarding the DDD's efforts to identify individuals in need of residential or in-home supports, as well as those Potential Class Members who wish to move from ICFs/DD. It is the intention of the DDD to partner with the Plaintiffs and other advocates to ensure individuals and their guardians are given accurate and complete information about their options.

Section IV, Development of Community Capacity, discusses the need to expand and develop new service capacity to meet the requirements of the Decree for Class Members seeking services. The DDD intends to work with both existing providers and recruit new providers to fill the growth in service delivery.

Section V, Community-Based Services/Placement for Individuals Residing in ICFs/DD, addresses the opportunity for Class Members residing in ICFs/DD to move to community-based services. At 2 ½, 4 ½, and 6 years from the approval of the Consent Decree (June 15, 2011), the DDD will have implemented services to one-third of these Class Members. Monitoring activities will be underway to achieve the goal of successful transitions.

Section VI, Transition Planning, outlines a plan and time frame for implementing the use of Transition Service Plans for Class Members. This new process will present a system change for the entire service delivery system. The Transition Service Plans will be developed prior to the selection of service providers to describe the services a Class Member needs. The goal of this process is to ensure service delivery focused on and tailored to the individual.

Section VII, Waiting List for Community Services and Placement, details the process for Class Members living at home to be selected for the 3,000 new community capacities. Individuals will be selected each year from the DDD's waiting list.

Section VIII, Community Crises, confirms the DDD will continue its current practices in serving individuals in crisis situations. These services will be above the 3,000 capacities being developed for Class Members residing at home.

Section IX, Appeal Process, refers to the right to appeal any denial, suspension, termination, or reduction of services, as well as the process for informing Class Members of this right.

Section X, Resources Necessary for Implementation, outlines additional resources required by the DDD to implement the provisions of the Consent Decree. These resources include contractual services for administrative

functions, additional staff, and direct services for Class Members. Also discussed in this section is the budget development to both maintain existing services and implement the new provisions of the Decree.

Section XI, Interagency Agreements, lists the two agreements currently in place among State governmental entities to secure matching Medicaid funds for developmental disabilities services. It is believed these agreements are sufficient to implement the provisions of the Decree.

Section XII, Process for Plan Reporting and Modification, provides for the annual review and update of this Implementation Plan. Reports will be produced every six months by the DDD containing data and information regarding compliance activities.

Section XIII, Acronyms, lists the acronyms used in this document.

## **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, the Attorney General's Office provided to the Monitor and Plaintiffs on July 15, 2011, an initial list of Class Members. Intervenors were also given a copy of the initial list. 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;
- But not those excluded from the class, as set out immediately below and in Paragraph 6 of the Decree.

The Parties have agreed that, for those individuals who live in ICF/DD settings, they are a Class Member if they have completed an Illinois Form 1238<sup>iii</sup> or its predecessor, DMHDD Form 1243; or the DDPAS-10 Form<sup>iv</sup>; or the Request Form disseminated through Plaintiffs' counsel; and checked the box indicating he or she chooses Home and Community-Based Services. An individual will not be a Class Member if he or she completed one of the above forms and checked the box choosing services in an ICF/DD or if he or she otherwise objected to the terms of the Consent Decree at the Court's fairness hearing or objected otherwise in writing per Paragraph 6 of the Decree, unless a subsequent communication to DDD requests Community-Based Services or placement in a Community-Based Setting.

With the assistance of the Monitor, the DDD will further scrutinize the initial list, including comparing it to the list of objectors to the Consent Decree, to ensure that only individuals for whom the State has a current record affirmatively requesting Community-Based Services or Settings are included on the list.

This initial list of Class Members will be compared with the State's PUNS database of individuals waiting for services and the following actions will be taken:

- The record for Class Member will be marked as a *Ligas* Class Member, along with the date the person was added to the Class Member listing. Records for those in the initial list will show this date as June 15, 2011. The record will also reflect whether the Class Member is living in the Family Home, an ICF/DD on June 15, 2011, or an ICF/DD after June 15, 2011.
- If an individual is included in the initial listing but is not enrolled in PUNS, the State will instruct the PAS/ISC agencies to meet with the individual and his or her guardian to complete a PUNS enrollment.
- The State will add individuals to the class list as they request Community-Based Services or placement through the normal PUNS process, per the existing PUNS manual.<sup>v</sup> It will also add those individuals who inform the State they choose to move from ICFs/DD through the completion of Form 1238, Choice of Supports and Services, or the DDPAS-10 Form. Efforts to identify additional Class Members are discussed in the Outreach section of this plan.

- If a person requests to be removed from the class at any point during the time of the Consent Decree, their record will be so marked, along with the date and reason. Reasons for leaving the class include:
  - Individual chose to stay in ICF/DD
  - Individual chose to move to ICF/DD
  - Individual is deceased
  - Individual moved out of State
  - Individual was determined by DDD to be ineligible for the Medicaid Waiver
  - Individual withdrew from the class without giving a reason
  - Other

Thus, the individual's record will be marked as "removed" but the record itself will not be deleted. Prior to marking an individual's record as "removed", the DDD will ensure the individual was informed of his or her rights as a Class Member by a PAS/ISC agency or an independent contractor.

The State will use its PUNS database to maintain the list of Class Members. Each Class Member will have a PUNS enrollment and his or her record will be marked with the data elements described above.

In order for these efforts to be successful, enrollments on the PUNS database must be kept current. The DDD will work with the existing 18 PAS/ISC agencies to ensure records are updated at least annually. The DDD will require each agency to develop a plan of action to update all records presently out-of-date.

The DDD will maintain the class list. The Monitor and Class Counsel will have access to the class list, including contact information, on an on-going basis. The DDD also will provide to Intervenor's Counsel the class list that DDD will use to compare with the listing of all ICF/DD residents to determine which ICF/DD residents will be contacted by the Outreach contractors as provided in Section III of this Implementation Plan, subject to Intervenor's Counsel's agreement to: (1) maintain the list as "attorneys' eyes only"; (2) not disseminate any name on the list beyond Intervenor's Counsel; and (3) not contact any individual on the list, the individuals' guardians or the ICFs/DD in which those individuals reside. The DDD will produce for the Monitor, Class Counsel, and Intervenor's Counsel semi-annual summary reports of additions to and removals from the list.

As part of the annual reviews of the Implementation Plan (see Section XII), the DDD will review the adequacy of the PUNS database in capturing the information needed for implementation of the Decree.

### 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.*

The DDD's outreach efforts will be directed to:

- identifying individuals with developmental disabilities throughout the State who are or will be in need of residential or in-home supports funded through DDD Medicaid services; and
- Identifying individuals residing in ICFs/DD on or before June 15, 2011, who may choose to transition to Community-Based Settings and services. Objectors to the Consent Decree will not be contacted. The DDD will work in conjunction with Class Counsel to coordinate efforts on outreach.

#### Community Outreach

DDD will use the existing PUNS database, enrollment form, and manual as tools to identify, record, and track information regarding individuals newly identified as in need of services. The DDD will continue to complete PUNS enrollments through contracted entities. As the Implementation Plan is being written, there are 18 local PAS/ISC agencies with contracts through the DDD for PUNS enrollments.

Outreach efforts shall include:

- Training of PAS/ISC agencies on the requirements of the Consent Decree and the provisions of the Implementation Plan;
- Development and maintenance of special brochures, flyers, and posters, which can be downloaded from the DDD website;<sup>vi</sup>
- Coordination with trade associations, local schools, special recreation associations, and other advocacy organizations to publicize PUNS;
- Distribution of information regarding PUNS and *Ligas* to Medicaid-enrolled health care providers via the State Medicaid agency's list serve;
- Distribution of materials at special events such as conferences, seminars, etc.;

- Inclusion of culturally appropriate materials, alternative means of communication, and easily understandable language in efforts to publicize PUNS, including targeting communities identified as under-reported;
- Maintenance of the PAS/ISC office locator function on the DDD website; and
- Maintenance of the 1-888-DDPLANS toll free number to connect families with their local PAS/ISC office.

#### Outreach to Persons in ICFs/DD

In addition to the efforts to inform and identify individuals throughout the population as a whole, the DDD will focus outreach efforts to identify Potential Class Members residing in ICFs/DD. (Potential Class Members residing in ICFs/DD are those ICF/DD residents who (1) are not Class Members and (2) did not exclude themselves from the class by having objected to the Decree prior to its approval or by submitting a written request to be excluded prior to compilation of the initial class list per Paragraph 6 of the Decree.) The DDD will issue a Request for Proposals (RFP) to secure the services of a contractor or multiple contractors to contact all Potential Class Members residing in ICFs/DD. The contractor(s) selected will be independent of direct service and service coordination for persons with developmental disabilities in Illinois. The Monitor, Class Counsel, and Intervenors will provide input into the development of the RFP.

Once the contract (or contracts) is in place, the DDD will issue notice that the contracted entities (or entity) will be working in the facilities for the next two to three years. The DDD will require the ICFs/DD providers to confirm the list of individuals residing in their facilities and to provide the DDD with the addresses and phone numbers for all guardians. The DDD will then compare the listing of all ICF/DD residents to the list of known Class Members and the list of those individuals who excluded themselves from the class by objecting or submitting a written request per Paragraph 6 of the Decree. Once that comparison is finished, the DDD will provide the contractor(s) with a list of ICFs/DD and Potential Class Members. The contractor(s) will then call the guardian and ask if the guardian is willing to meet to discuss having the Potential Class Member move to a community-based setting and, if so, inform them that the Potential Class Member's records will be reviewed as part of the next steps. Thereafter, the ICFs/DD will provide the contractor(s) with full access to records only for those individuals who indicate they wish to consider moving, and, upon reasonable notice (i.e., at least seven calendar days), provide the contractor(s) with full access to and private meeting space with Potential Class Members at times and in a manner that are convenient for the Potential Class Members and their guardians and do not unreasonably interfere with the operations of the facility. (For those individuals without guardians, the first contact will be through record

reviews and face-to-face meetings.) The DDD will inform ICF/DD administrators that they and facility staff cannot interfere with the outreach process or seek to intimidate, persuade, or otherwise influence residents to stay in their facilities. No individual or their guardian will be required to meet with the contractor(s) if they choose not to do so.

DDD, with the participation of the Monitor, will develop written guidelines and provide training for the contractor(s). Such guidelines and training will ensure the contractor(s) provide complete and objective information regarding all alternative choices for long-term care services for Potential Class Members and do not attempt to steer Potential Class Members toward any particular service alternative. The goal is to enable the individual and his or her guardian, if applicable, to choose the service alternative that they feel best meets their needs.

Where Potential Class Members have indicated that they wish to consider moving to a Community-Based Setting, the contractor will meet with those individuals, and their guardians and family members, to inform the individuals of their rights under the Consent Decree and to provide them with complete and objective information regarding all alternative choices for long-term care services. As part of the information regarding alternative choices, prior to making choices about moving, the contractor will provide Potential Class Members the opportunity to visit community-based settings and to meet with people with disabilities and their families who already have transitioned to another setting. The contractor will document the date and time of the meeting with the individual, guardian, and/or family members and record on a form provided by the DDD the individual's decision to remain in the ICF/DD or to consider moving to an alternative setting. The contractor will give copies of these completed forms to the DDD.

The contractor will inform the individual of his or her options through the PUNS intake form, complete the PUNS enrollment for those individuals who wish to receive community-based services, and report that information to the DDD using the Reporting of Community Services (ROCS) software.

If an individual indicates that he or she would like to consider moving to an alternative setting, whether that alternative setting be community-based services or another ICF/DD, the contractor will refer the individual to the appropriate PAS agency to work with the individual regarding his or her options. The PAS agency will facilitate visits to potential alternative settings to assist the individual and guardian in evaluating and/or selecting types of services and providers.

If a Potential Class Member chooses to move to a Community-Based Setting and that choice is documented in accordance with Paragraph 10 of the Consent Decree, the individual shall become a Class Member. If a Potential Class Member chooses to remain in his or her ICF/DD or move to another ICF/DD, the

individual will not be a Class Member. However, Potential Class Members are not required to make a decision about whether to join the class during the initial outreach visit and can maintain their status as a Potential Class Member until they are ready to make a decision.

Much of the contractor(s) work should be completed by July 31, 2015, including initial meetings with individuals, guardians, and family members. In order to provide individuals' guardians, and family members sufficient time to explore options and make decisions, outreach efforts will continue beyond that date.

#### General Information Sharing

In order to better inform individuals and family members, the DDD will expand and maintain the *Ligas* page on its website. It will develop materials for this page with input from the Monitor, Plaintiffs, and family representatives. It will also make presentations about the Consent Decree around the State at conferences, annual meetings, and other events hosted by other organizations and agencies. If there are an insufficient number of such events to enable DDD to educate the public about the Consent Decree, DDD will create and host its own events. The DDD will post a schedule on its website of all events in which it will present information about the Consent Decree.

### **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 adoption 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 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.*

Within the first six years of the Consent Decree, the DDD will provide services to 3,000 individuals currently living at home with their families or in another community arrangement. These services will include both Home-Based Support Services (HBS) and Community Integrated Living Arrangement (CILA) services, inclusive of day programs, therapies, assistive technology, and other support services. In addition, an unidentified number of individuals will be moving from ICFs/DD to HBS or CILA services. This will require at least an estimated 20% expansion of Waiver capacity. (The exact amount cannot be known until the individuals in ICFs/DD are identified.) Individuals selected to receive services under this Consent Decree may choose from any qualified and willing providers as defined in the Waiver.

Illinois has a substantial base of qualified HBS, CILA, and day program providers. There are approximately 190 licensed CILA providers, 125 HBS service facilitation agencies, 150 developmental training providers, and 65 supported employment providers, as well as providers of therapies, assistive technology, and other support services. In order to meet the required expansion, current providers will be called upon to increase the size of their operations and new providers may be needed.

As part of the annual reviews of the Implementation Plan (see Section XII), the DDD will review progress toward this needed expansion and modify the Implementation Plan as necessary to implement the provisions of the Decree.

### New Providers

Any existing providers interested in implementing new programs or any entities interested in becoming providers through the DDD are directed to visit the DDD's web page about becoming a new provider<sup>vii</sup>. This web page informs potential providers about the qualification process, regulations, compliance issues, staff training requirements, DDD contact persons, etc. In addition, for potential new CILA or developmental training providers, prior to the acceptance of a license or certification application, the DDD mandates attendance at one of the orientation sessions provided by the DDD approximately twice per year. Information about these sessions is posted on the DDD website. At these sessions, community services, quality assurance, and rates staff give joint presentations about provider regulations and processes and are available to answer questions from potential providers.

### Conversion of ICF/DD Capacity

The DDD will work with the Department of Healthcare and Family Services (HFS) to propose rule language to allow the DDD to enter into voluntary closure agreements with providers of ICFs/DD of 16 and fewer beds. These closure agreements would 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. The DDD, through regulatory language, has for over a decade been able to enter into such agreements with larger ICFs/DD; however, the option is not available for 16-bed facilities as of the writing of this plan. This new proposed option could assist ICF/DD providers that choose to eliminate ICF/DD capacity and create or expand community-based settings. The DDD and HFS will work together to submit the proposed rule language to the Joint Committee on Administrative Rules (JCAR) and respond to comments during the public comment periods. The DDD's goal is to submit the proposed rule language to JCAR by July 31, 2012.

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

### Provider Qualifications and Training

The qualifications for each type of Waiver provider are specified in Appendix C of the Waiver.<sup>ix</sup> Training requirements are listed and described in the DDD's training catalogue available on the DDD's website.<sup>x</sup>

The quality improvement system for the Waiver is described in Appendix H of the Waiver. Performance measures are outlined throughout the Waiver itself.

## **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...*

Per the Consent Decree, at 2 ½, 4 ½, and 6 years, the DDD will have implemented services to one-third of the individuals who were residing in ICFs/DD as of June 15, 2011 who inform the DDD they choose to move to Community-Based Placements. The number requesting to move will be calculated at 24 months following the approval of the Consent Decree, i.e., June 15, 2013. Any of the individuals who were residing in ICFs/DD as of June 15, 2011, who are newly identified as choosing to move to community-based services after June 15, 2013, will be offered services over the course of Years three through six.

As this Implementation Plan is being drafted, there are over 450 confirmed class members residing in ICFs/DD. The DDD is instructing the PAS agencies to work with these individuals to submit applications for Waiver services. Applications will be processed as they are received by the DDD. In the event the number of individuals seeking to move requires the DDD to manage the flow of requests and time frames for authorization, the DDD will select individuals for services based on the length of time they have resided in an ICF/DD. That is, those residing in an ICF/DD the longest amount of time will be selected first. Three factors may cause individuals to be selected sooner, at the DDD's discretion, than their class list date would indicate: (1) a request from the individual or the ICF/DD due to the inability of the ICF/DD to meet the individual's medical or behavioral needs, (2) a request from roommates or friends who wish to move together at the same time, and (3) a voluntary downsizing or closure agreement.

As individuals are identified as choosing to move, via the process described in the Outreach section above, pre-admission screening entities will be instructed to complete Medicaid Waiver eligibility assessments for them per the DD Pre-Admission Screening Manual<sup>xi</sup> and to report the results to the DDD via the ROCS software.<sup>xii</sup> Service options will be presented, per the same manual, to those individuals determined eligible. These options will be recorded on the DDPAS-10 Form. Transition Service Plans, as described below in the Transition Planning section, will be developed for those who choose to move.

The DDD will build upon processes it has developed for persons transitioning from State-Operated Developmental Centers (SODCs) to monitor the transitions

of individuals from ICFs/DD to Community-Based Settings or Services. Staff within the DDD's Bureau of Transition Services will be assigned to each individual, contacting them or their guardians and service providers monthly during the first year following transition. Monitoring activities will be tracked through an internal database that is currently in use for SODC transitions.

In addition to the activities by State staff, the PAS/ISSA will 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.<sup>xiii</sup> It may also request more hours for additional visits per the Guidelines.

## **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.*

Implementation of the use of Transition Service Plans will be a system change for the entire service delivery system. Time will be needed in order to affect this change.

The DDD will develop a process for completion of a Transition Service Plan for each class member seeking services in a Community-Based Setting. A standardized format will be developed and required. As the Implementation Plan is being written, it is envisioned that the PAS/ISC agencies will complete the Transition Service Plans with the Class Member and his or her guardian. The DDD will seek input from the Monitor, Plaintiffs Counsel, PAS/ISC agencies, self-advocates, providers, and other advocates throughout the system in the development of the standard form and accompanying processes.

In order to complete this work, the DDD will:

- By March 31, 2012, seek initial input,
- By April 30, 2012, draft initial version of standard form and accompanying instructions,
- By May 31, 2012, seek comments from stakeholders on draft materials,
- By June 30, 2012, finalize the standard form and accompanying instructions and draft implementation processes,
- By September 30, 2012, pilot the new materials and processes,
- By November 30, 2012, review results of the pilot and make necessary revisions,
- By May 31, 2013, provide training to PAS/ISC agencies, direct service providers, and DDD staff,
- By July 1, 2013, implement the new process statewide for all Class Members,
- By January 31, 2014, evaluate the new process, and
- On an on-going basis, modify the new process as necessary to implement the provisions of the Decree.

The new process will be consistent with Paragraphs 11 through 15 of the Decree quoted above at the beginning of this Section.

The process will address the coordination required between PAS/ISC agencies when a Class Member is moving from one geographic location to another. The training for the PAS/ISC agencies will emphasize their respective responsibilities in such situations.

Once implementation is complete, Transition Service Plans will be completed for each individual leaving an ICF/DD or the Family Home. In no more than 12 months prior to the development of the Transition Service Plan, the Class Member must be presented with all of his or her service alternatives. Transition Plans are not required for those individuals who will be receiving Home-Based Support Services (HBS) in their own or family's home. An individual service plan

is still required for each individual in the HBS Program as described in the Waiver.

In the meantime, no individuals will be required to wait for the development and implementation of this process in order to move to a Community-Based Setting. PAS/ISC agencies will follow the processes described in the DD PAS Manual to assist individuals in obtaining needed services. Once the Transition Service Plan process is implemented, the Plans shall be completed within sufficient time to provide appropriate and sufficient transitions of Class Members in accordance with the deadlines set forth in the Decree.

This Transition Service Plan is separate from the Individual Service Plans completed for all individuals enrolling in the Waiver. The Individual Service Plans will be completed prior to the individual transitioning to community-based services and are inclusive of risk assessments to ensure the health and general well-being of the individuals.

## **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 is to serve under the Medicaid Waiver an additional 3,000 individuals from the waiting list. The addition of these 3,000 capacities will be accomplished by adding people to both the CILA and HBS programs. The DDD will use the following process for selecting individuals to be served from the Class Member waiting list:

Exclude anyone whose record is not labeled as a *Ligas* class member. As secondary edits to double check for accuracy of the list and selection, exclude the following records in all cases:

- Persons previously selected in PUNS selections [These individuals have already been chosen and offered services.],
- Persons in the Planning category [These individuals are not seeking services within the year, but are anticipating the need for services within five years.],
- Persons who are under the age of 18 [These individuals are not Class Members.],
- Persons residing in Child Care Institutions (Program Code 19D) and Community Living Facilities (Program Code 67D) [These individuals are already receiving residential services.],
- Persons already enrolled in the Children's Support and Residential Waivers (Waiver Codes D1 or D2) [These individuals already have a funding path for entrance into the adult Waiver.],
- Persons who are client type [These individuals are not Class Members.]:
  - B, *Bogard* Class Members,
  - C, CILA participants,
  - F, Family Assistance Program developmental disabilities participants,
  - K, Family Assistance Program mental health participants,
  - S, State-Operated Developmental Center residents, and
  - W, Mental Health Home-Based Support Services participants, and
- Persons who are client type [These individuals already have a funding path for entrance into the adult Waiver.]:
  - G, Children's Support Waiver participants, and
  - R, Children's Residential Waiver participants.

When selecting adults for HBS, exclude anyone already in the HBS program.

Selections will include individuals enrolled in the adult Waiver who indicate a need for more services. For example, persons receiving day program services but who may request in-home supports, or persons receiving HBS services but who may request CILA services, will be included in the selection process for the 3,000 capacities. Individuals admitted to ICFs/DD after June 15, 2011 who choose to move will also be included in the selections.

For every 100 individuals selected, include for residential services criteria:

25 individuals who are recorded on the PUNS database as being in an emergency situation (i.e., needing services immediately)<sup>xiv</sup> and needing out-of-home supports

25 individuals residing at home with a primary caregiver age 75 or over

For every 100 individuals selected, include for Home-Based Support Services:

20 individuals who are recorded on the PUNS database as being in an emergency (i.e., needing services immediately) or critical (i.e., needing services within the year) situation and needing in-home or day supports

15 individuals leaving the Public School System in the last 5 years (use age 22 as selection criteria)

15 individuals residing at home with a primary caregiver age 60 or over

Within each category, selections will be made by length of time on the database.

The DDD will select sufficient numbers to enroll in the Waiver 1,000 individuals in the first two years of the Decree and 500 in each of Years three through six.

With the expansion envisioned under the Decree, it is believed the waiting list will move at a faster pace after Year Six. The DDD will track and post on its website the average length of time individuals wait on the PUNS database.

At the end of July of 2011, of the individuals actively enrolled in PUNS, 16% were recorded as being in the emergency category (i.e., needing services immediately), 54% in the critical category (i.e., needing services within the year), and 30% in the planning category (i.e., needing services within the next five years). Summary information regarding the PUNS enrollments can be found on the DDD's website.<sup>xv</sup>

## **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 PAS/ISC agencies will 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>xvi</sup> These requests are not part of the 3,000 capacities to be provided under Section VII, Waiting List for Community Services and Placement. The DDD will ensure individuals are served expeditiously.

As the Implementation Plan is being written, the DDD has provided the Monitor with baseline information regarding crisis requests approved and denied during FY10, FY11, and FY12 (year to date). As part of its compliance reports, the DDD

will continue to provide to the Monitor data regarding the crisis requests approved and denied. The Monitor will review a sample of these requests and will be given access to the individual files.

## **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>xvii</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 the DDD website.<sup>xviii</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>xix</sup>

The DDD will hire another individual to assist in processing the anticipated increase in the number of appeals. The DDD will also work with staff from HFS to identify potential ways to streamline the appeal process.

## **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 that are currently funded and must be maintained as well as items that require new funding. As implementation is underway, the known resource needs include:

- Contractual agreements
  - Request for Proposals for Outreach to ICFs/DD Residents,

- Pre-Admission Screening, both on-going maintenance and new funds for increased volume of eligibility determinations,
  - Increased PUNS enrollments,
  - Transition Service Plan development,
  - Increased ISSA enrollments,
  - Consultant to work within the Bureau of Transition Services during the first two years of the Decree to review Transition Plans and train PAS/ISC agencies and providers on their development,
  - Consultant to work within the Bureau of Transition Services during the first two years of the Decree to serve as a family liaison during the outreach to individuals residing in ICFs/DD, and
  - Central Office assistance with coordination and implementation until new staff can be hired;
- Additional DDD staff to be hired (with the hiring beginning in FY12 and continuing through mid FY13)
    - (1) Strategic Planning Unit, for a *Ligas* Compliance Coordinator to oversee implementation activities and prepare required compliance reports,
    - (1) Program and Data Support Bureau, for maintenance and management of the class list,
    - (7) Bureau of Quality Management, for monitoring of community-based services, including intake and management of complaints, trend analysis of complaints and investigations, targeted site visits to new providers, and increased volume of follow-up activity as concerns are identified and addressed,
    - (4) Bureau of Transition Services, for facilitating and overseeing transition activity for the individuals moving from ICFs/DD and the 3000 individuals starting services from the community,
    - (1) Appeals Unit, for increased volume of appeals,
    - (1) Rates Section, for increased volume of application and rate packets, and
    - (3) Medicaid Waiver Unit, for increased activity regarding Waiver oversight;
  - Direct Services
    - Services for 1000 individuals in the first two years and 500 each year thereafter, and
    - Services for individuals who choose to move from ICFs/DD.

The above implementation items are in addition to the on-going maintenance items included in the DDD's budget. These maintenance items include:

- Services for persons residing in ICFs/DD,
- Services for persons enrolled in the Waiver,
- Base Pre-Admission Screening grants,

- Base grants for PUNS enrollments, and
- Administrative staff within the DDD.

The DDD will make every effort to maximize federal Medicaid match for the direct services and administrative activities. The DDD reviews rejected claims and works with providers to correct or complete data for claims submissions. The DDD needs to increase those efforts and account for the anticipated growth in volume as Waiver capacity expands. Additional staff is being requested. Where applicable, the Money Follows the Person grant will be used to secure enhanced match during the first year of community-based services for those individuals who leave ICFs/DD for eligible settings under the grant. Existing interagency agreements describe the coordination between DDD and HFS regarding Medicaid match. See the following Section XI.

### Appropriations

As implementation is underway, the DDD's budget for Fiscal Year 12 has combined the major appropriation line for community-based services and ICF/DD services into one line. This will enable the DDD to redirect resources, if appropriate, as individuals and providers make future choices regarding service provision. The DDD will request that this practice continue in each subsequent year of the Consent Decree. However, the DDD will maintain 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 and outreach;
- Special rates for ICFs/DD voluntary closure agreements; and
- Contractual consultants and staff.

As implementation is underway, the DDD and the DHS Budget Office are informing the Governor's Office of Management and Budget of anticipated resources needed yet in Fiscal Year 2012. These include:

- Capacities for 100 ICF/DD residents to move to Waiver services;
- Capacities for an additional 300 individuals who live in the Family Home at one-half year phase;
- Eligibility assessments for 400 individuals;
- Contractor(s) for outreach to ICF/DD residents;
- Closure rates for ICFs/DD agreements covering an estimated 50 individuals;
- Contractual consultants as necessary to oversee compliance until new staff are hired; and
- Eight new staff.<sup>xx</sup>

The proposed budget for *Ligas* implementation will be annually presented to the Parties and Intervenors.

#### Federal Approval of Waiver Capacity

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

Federal approval for the current adult Waiver expires on June 30, 2012. The renewal process is underway as the Implementation Plan is being written. During the development of the renewal application, the DDD and HFS will ensure consistency and compliance with the *Ligas* Consent Decree. The DDD and HFS are being assisted during the renewal process by technical assistance provided by the federal government through its quality assurance contractor.

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

Interagency agreements, necessary to carry out the provisions of the Decree, are in place among the Departments. Specifically, there is an interagency agreement 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. In addition, there is an interagency agreement specific to the implementation of the Money Follows the Person grant. These agreements are available upon request from the DDD. At this point, the DDD does not anticipate the need for any 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...*

*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. Changes will be made, as needed, with the assistance of the Monitor. The proposed modifications will be submitted to the Monitor. The Plaintiffs and, if applicable, the Intervenors, will be given the opportunity for input.

Per Paragraph 33 of the Decree, the DDD will report data and information regarding its progress toward compliance with the provisions of the Decree. These reports will be posted on the DDD's website. As the draft Implementation Plan is being developed, the DDD is discussing with the Parties and Monitor the data and information to be included in these reports. These discussions will be concluded by December 15, 2011, so the data and information will be listed in the final Plan.

## **Section XIII. 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  
ICF/MR – Intermediate Care Facility for Persons with Mental Retardation  
ISC – Independent Service Coordination  
ISSA – Individual Service and Support Advocacy  
JCAR – Joint Committee on Administrative Rules  
PAS – Pre-Admission Screening  
PUNS – Prioritization of Urgency of Need for Services  
RFP – Request for Proposals  
ROCS – Reporting of Community Services

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<sup>i</sup> Capitalized terms in the Implementation Plan are defined in the Implementation Plan are defined in the Consent Decree.

<sup>ii</sup> The link for the *Ligas* Consent Decree is [http://www.dhs.state.il.us/OneNetLibrary/27896/documents/By\\_Division/Division%20of%20DD/LigasConsentDecree061511.pdf](http://www.dhs.state.il.us/OneNetLibrary/27896/documents/By_Division/Division%20of%20DD/LigasConsentDecree061511.pdf).

<sup>iii</sup> The link to Form IL1238, Choice of Supports and Services, is <http://www.dhs.state.il.us/OneNetLibrary/27897/documents/Forms/IL462-1238.pdf>.

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

<sup>v</sup> The link to the PUNS Manual is <http://www.dhs.state.il.us/OneNetLibrary/27897/documents/Manuals/DD%20Manuals/Illinois%20PUNS%20Manual.pdf>.

<sup>vi</sup> The link to the PUNS brochures, flyers, and posters is <http://www.dhs.state.il.us/page.aspx?item=31104>.

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

<sup>viii</sup> The link to the sample downsizing agreement is <http://www.dhs.state.il.us/page.aspx?item=50038>.

<sup>ix</sup> The link to the adult DD Waiver is [http://www.dhs.state.il.us/OneNetLibrary/27896/documents/By\\_Division/Division%20of%20DD/Adult%20DD%20Waiver.pdf](http://www.dhs.state.il.us/OneNetLibrary/27896/documents/By_Division/Division%20of%20DD/Adult%20DD%20Waiver.pdf).

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

<sup>xi</sup> The link to the DD Pre-Admission Screening Manual is <http://www.dhs.state.il.us/page.aspx?item=53018>.

<sup>xii</sup> The link to the ROCS Software is [http://www.dhs.state.il.us/OneNetLibrary/27896/documents/By\\_Division/MentalHealth/DHSCRSManual.pdf](http://www.dhs.state.il.us/OneNetLibrary/27896/documents/By_Division/MentalHealth/DHSCRSManual.pdf).

<sup>xiii</sup> The link to the ISSA Problem Resolution Protocol is <http://www.dhs.state.il.us/page.aspx?item=56642>.

<sup>xiv</sup> The PUNS database categorizes individuals into emergency, critical, and planning needs. See the PUNS Manual for definitions of these categories. The link to the PUNS Manual is <http://www.dhs.state.il.us/OneNetLibrary/27897/documents/Manuals/DD%20Manuals/Illinois%20PUNS%20Manual.pdf>.

<sup>xv</sup> The link to the PUNS summary reports is <http://www.dhs.state.il.us/page.aspx?item=51905>.

<sup>xvi</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>.

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

<sup>xviii</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>xix</sup> The link to the DDPAS-10 Form is

<http://www.dhs.state.il.us/OneNetLibrary/4/documents/PAS/DDPAS100111.pdf>.

<sup>xx</sup> The first eight staff to be hired will be the compliance coordinator, the class list person, three quality assurance staff, two transition services staff, and one appeals unit staff.

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

[http://www.dhs.state.il.us/OneNetLibrary/27896/documents/By\\_Division/Division%20of%20DD/Adult%20DD%20Waiver.pdf](http://www.dhs.state.il.us/OneNetLibrary/27896/documents/By_Division/Division%20of%20DD/Adult%20DD%20Waiver.pdf).