N.B., et al.

v.

Theresa Eagleson, et al.

Report of the Expert

June 2023

Respectfully Submitted:
John O'Brien
Expert
jobrien@tacinc.org

N.B., et al. v. Theresa Eagleson, et al.

Report of the Expert

June 2023

Table of Contents

Introduction 3

Overview of Report 4

Progress on Implementation Plan 4

1. Model Component #1--Ongoing Class Member and Family Input 5
2. Model Component #2-- Managed Care Organizations 5
3. Model Component #3—Care Coordination (formerly Integrated Health Homes) 5
4. Model Component #4--New Services, Providers, and Policies to Enhance Access to Behavioral Health Services 11
5. Model Component #5--PRTFs 13
6. Implementation Training and Technical Assistance 13
7. Cross-Agency Collaboration on Model Development and Implementation 15

Progress on Key Provisions of the Consent Decree 5

V. The System for Providing Mental and Behavioral Health Services to Children under the EPSDT Requirements 17

VI. Implementation 37

VII. Named Plaintiffs and Class Members Who Received Preliminary Help or Interim Relief 39

VIII. Benchmarks 39

Major Expert Recommendations for Next Reporting Period 40

Third Annual Subject Matter Expert Report
May 2023

Introduction

The N.B. lawsuit was filed in 2011 on behalf of Medicaid-eligible children under the age of 21 in the State of Illinois seeking certain mental and behavioral health services under the Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) requirement of the federal Medicaid Act. Federal EPSDT statute and policies require the states to provide comprehensive and preventive health care services for children under age 21 who are enrolled in Medicaid. EPSDT is key to ensuring that children and adolescents receive appropriate preventive, dental, mental health, developmental, and specialty services.

On February 13, 2014, the United States District Court for the Northern District of Illinois certified the case as a class action for the following individuals: "All Medicaid-eligible children under the age of 21 in the State of Illinois: (1) who have been diagnosed with a mental health or behavioral disorder; and (2) for whom a licensed practitioner of the healing arts has recommended intensive home- and community-based services to correct or ameliorate their disorders." While the Department is working to develop a specific projection for the number of children in the N.B. Class, based on updated data, an estimated 5,000 children have been identified as N.B. Class Members. It is anticipated that approximately 3,000 of those youth will be referred for Pathways to Success (Pathways) services in the first full year of implementation as new service providers are being developed statewide, which is now projected to start in 2023. The State has taken an approach, similar to other states, to enroll youth on a more gradual basis. This approach allows the State to closely monitor the quality of care coordination and other Pathways services as the capacity of the service system grows.

The Department and Plaintiffs agreed to resolve the N.B. class action through a Consent Decree approved by the Court on January 16, 2018. The N.B. Consent Decree requires the Department to develop, through an Implementation Plan, a behavioral health delivery "Model" to provide Class Members with a continuum of Medicaid-authorized and required mental and behavioral health services, including home- and community-based services. The Implementation Plan was developed by the Department with input from the Expert, Class Counsel, and stakeholders, and was finalized by agreement of the parties on December 2, 2019. A first revised implementation plan was developed and agreed to by the Parties and Expert in October 2022. The plan was filed with the court and published on October 24, 2022. The link to the plan is available at: https://hfs.illinois.gov/content/dam/soi/en/web/hfs/sitecollectiondocuments/nbconsentdecreefirstrevisedimplementationplanoctober242022.pdf

The N.B. Consent Decree also requires an Expert to evaluate, provide input, and report to the parties and the Court during implementation of its requirements. The Consent Decree requires the Expert to file a written report to the Court and parties within sixty (60) days after the first anniversary of the approval of the Implementation Plan and annually thereafter. The report is to provide information regarding the Defendant's progress on implementing the requirements of this Consent Decree and the Implementation Plan as necessary to meet the Benchmarks in

the Consent Decree. This is the third report of the Expert, encompassing the timeframe of January 1, 2022, through December 31, 2022.

Overview of Report

The report provides an assessment by the Expert regarding the progress the Department has made regarding key tasks and activities in the original and revised Implementation Plans that were to be completed in Calendar Year (CY) 2022. This report also provides an assessment of whether the Department of Health and Family Services (HFS) is complying with the substantive paragraphs of the Consent Decree. The initial section of the report summarizes progress on the initial Implementation Plan that was filed in December 2019 and the revised Implementation Plan filed in October 2022. This section also recommends activities HFS should undertake in CY 2023.

The next section provides information regarding HFS's efforts to address the relevant paragraphs of the Consent Decree. This section also provides recommendations from the Expert to the Department regarding policy and additional implementation activities that the Expert believes will ensure the Department meets its goals and objectives set forth in the Implementation Plan and overall Consent Decree. The report concludes with a summary of critical areas the Department should focus on over the next reporting period.

Progress on Implementation Plan

The Department filed an initial Implementation Plan on December 2, 2019, and the first revision of the Implementation Plan in October 2022. The Consent Decree requires the Department to implement various provisions to ensure the availability of services, supports, and other resources of sufficient quality, scope, and variety to meet the obligations of the Consent Decree through the development of a Medicaid behavioral health delivery model ("Model") for Class Members. Both Implementation Plans consist of several sections that provide additional details of the Model components, the action steps required to implement this plan, and the federal and state authorities under which the Model components are authorized and funded. This section of the report is structured to describe the activities the Department proposed for CY 2022, the progress made on those activities over the past year, and the Expert's recommendation for subsequent activities for CY 2023.

As indicated in the previous report, a major challenge for the Department to implement many of the activities set forth in the Implementation Plan had been obtaining approval from Federal CMS regarding the 1915(i) HCBS State Plan Amendment for the Pathways services . As indicated in previous reports, the implementation of the Pathways services required CMS approval. After eighteen months of working with CMS to respond to inquiries and adjust the 1915(i) application for Pathways, the Department was able to formally resubmit the 1915(i) application to CMS in early June 2022 and received approval on June 27, 2022. The Department took the necessary steps in this reporting period to be ready to begin implementation of the Implementation Plan soon after CMS approval.

In previous reports, the Expert identified the COVID-19 pandemic as a major barrier to implementation. Three years after the start of the pandemic, Illinois, similar to other states, continues to be plagued by the effects of this pandemic. A specific consequence of the pandemic is the negative impact on the behavioral health workforce. Staff shortages, especially of licensed clinicians, continue to create service delays and disruptions. As indicated in the previous report, the Department developed requirements for services in Pathways to align staffing requirements to ensure the most qualified but appropriate staff persons deliver these services. This bodes well for the Department since many new services in Pathways do not require a licensed professional to directly provide these services. However, there are some services Class Members may need (e.g., outpatient therapy) that will require a licensed clinician to directly provide, which will continue to create access issues. The Expert recommended the Department continuously assess the workforce issue during implementation to identify and address gaps in services due to workforce shortages and determine alternative staffing strategies (including the use of telehealth) to ensure consistent access to quality services offered to N.B. youth and their caregivers. The Department has implemented a number of strategies to address the workforce issues. As discussed below, these strategies include additional funding through the American Rescue Plan Act (ARPA) that will be deployed to help recruit and retain licensed staff. However, there is still a gap in licensed practitioners that will need to be continually assessed and addressed.

Another issue impacting new program initiatives is the lack of resources needed for program start-up. To address this issue, the Department has utilized federal funds, made available to state Medicaid agencies through the American Rescue Plan Act (ARPA), to support provider efforts during the pandemic. Specifically, the State has targeted $18 million for service providers who will offer Pathways services. During CY 2022 these funds have been initially offered to Care Coordination and Services Organizations (CCSOs) that are key to coordinating services to youth and caregivers enrolled in Pathways services. The Department has $25 million in federal funds to support providers offering other Pathways services during CY 2023.

There were many tasks the Department was to complete during this reporting period. Progress was made on many of the activities set forth in the initial and first revised Implementation Plan. However, the Department did not complete some important activities in CY 2022 and the Expert recommends these be completed in the next calendar year. Below is a summary of activities the Department was to complete during the reporting period, the activities the Department undertook, and activities the Expert recommends for the next reporting period:

Model Component #1--Ongoing Class Member and Family Input

- Proposed activities for CY 2022:
    i. Continue to convene the N.B. Subcommittee and provide additional opportunities to provide feedback on the Department's implementation efforts regarding the Pathways' services and other components of the N.B. Consent Decree and Implementation Plan.

ii. Align the Managed Care Organizations' (MCOs') ongoing Family Driven Care (FDC) Plan efforts with the implementation activities for the N.B. Consent Decree and provide that information to the N.B. Subcommittee and the Children's Behavioral Health Family Leadership Workgroup. The Expert requested, but has yet to receive, the most recent FDC Plan and HFS response to these plans.
iii. Finalize the process flow for youth in DCFS care and review with the N.B. Subcommittee.
iv. Merge the Children's Behavioral Health Family Leadership Workgroup with the existing N.B. Subcommittee.

- Accomplished activities:
    i. Held monthly meetings with the N.B. Subcommittee. Generally, these meetings were well attended. However, as discussed later in the report, HFS should solicit feedback from the N.B. Subcommittee on major components of Pathways, especially during implementation.
    ii. Received, reviewed, and approved annual updates from two MCOs regarding their Plans for Family Driven Care, including their implementation of Family Leadership Councils.
    iii. Continued efforts to work with DCFS to finalize the process flow for children who are in DCFS custody. As discussed in Paragraph 17, HFS has developed and revised the process for youth in DCFS care. However, even though HFS continued to meet weekly with DCFS leadership throughout CY 2022, DCFS had not approved the final process as of December 2022.
    iv. Updated the Communication Plan to inform Class Members, caregivers, and stakeholders regarding the Pathway Program's services and avenues for feedback.
- Activities recommended for next 12-month period:
    i. Continue to meet with the N.B. Subcommittee on a regular basis. While updates regarding the implementation of the Pathways' services should be an ongoing agenda item, the Department should take steps to leverage the knowledge of the Subcommittee for other aspects of the Pathways' services including soliciting input on key indicators for the Pathways' Quality Program, technical assistance efforts to support CCSOs, recruitment of providers for other Pathways services, and continued strategies for workforce development.
    ii. Request and review MCOs' 2023 Plans for Family Driven Care, including their implementation of Family Leadership Councils. The Expert recommends the Department or MCOs present key activities that target youth and caregivers in Pathways.
    iii. Finalize DCFS process flow and present the flow to the N.B. Subcommittee.

iv. Integrate co-chairs from each MCO Family Leadership Council into the N.B. Subcommittee.

Model Component #2-- Managed Care Organizations

- Proposed activities for CY 2022:
  - i. Finalize rules for Pathways.
  - ii. Execute the contract amendment for MCOs for Pathways.
  - iii. Develop the prior authorization criteria guidelines for N.B. Services. HFS has determined that the only services that will require prior authorization are Respite, Therapeutic Support Services and Individual Support Services, and Psychiatric Residential Treatment Facility services.
  - iv. Develop a comprehensive quality assurance plan that sets forth the following:
    1. The purpose of the quality assurance plan
    2. The use of data to inform HFS quality assurance activities
    3. The following data measures:
       a. Structural
       b. Process Measures
       c. Outcome Measures
    4. Table Shells for the measures set forth in #3 above
    5. Process that HFS will deploy to review and act on the data
    6. Process that HFS will use to provide the data to the N.B. Subcommittee and other stakeholder committees and the public at-large
  - v. Finalize and implement the approach to connect children and youth in the N.B. Class who are not enrolled in managed care and remain in the Medicaid fee-for-service program with care coordination and new services through the Model.
- Accomplished activities:
  - i. Finalized rules for Pathways. HFS rule 89 Ill. Admin. Code 141 was promulgated in August 2022.
  - ii. Executed the necessary MCO contract amendments in June 2022 that include the MCO responsibilities related to Pathways, including:
    1. Adding Children's Behavioral Health Program Manager as a key position.
    2. Requiring consistent eligibility and Medical Necessity Criteria (MNC) for Class Member services.
    3. Contracting with Care Coordination and Support Organization (CCSO) and other Class Member service providers.
    4. Developing and meeting provider network adequacy requirements.

5. Reimbursing for services provided to Class Members.
6. Collecting and reporting quality and outcome measures for Class Members including structural and process measure reporting.

iii. The Department has drafted but has yet to finalize a quality assurance approach for the Pathways' services as required by CMS.

iv. Finalized an approach in June 2022 for N.B. class members who are not enrolled in managed care. HFS, in cooperation with its university partner, oversees the care coordination efforts by the CCSOs for youth and families that remain in FFS and are not enrolled in a Medicaid managed care plan. HFS projects approximately 20% of youth will be in fee-for-service and enrolled in Pathways.

- Activities recommended for the next 12 months:
  - i. Develop medical necessity criteria for admissions to Psychiatric Residential Treatment Facilities (discussed in Model Component 5) prior to implementing their Psychiatric Treatment Residential Facility (PRTF) strategy.
  - ii. Finalize the initial Pathway Services quality assurance plan and review the plan with the N.B. Subcommittee.
  - iii. Track internally, but not publicly report, the number of care coordinators (providing each level of care coordination) by CCSO to ensure caseload sizes are consistent with the expectations set forth in state rules and other guidance.
  - iv. Begin to collect and publicly report information quarterly, or annually as noted below, reflecting the initial implementation progress, including:
    - i. The number of individuals under the age of 21 who had a completed Illinois Medicaid Comprehensive Assessment of Needs and Strengths (IM+CANS) and had a behavioral health need that was uploaded to the portal.
    - ii. The number of youth tiered into High-Fidelity Wraparound, as of the last day of the quarter.
    - iii. The number of youth tiered into Intensive Care Coordination, as of the last day of the quarter.
    - iv. The number of providers enrolled in the Illinois Medicaid Program Advanced Cloud Technology (IMPACT) and approved to offer Pathways' services, including Intensive Home-Based and Children's Services.
    - v. The number of staff who have been trained to provide each of the Pathways' services.
    - vi. Annual number of providers that submitted claims for each of the Pathways' services statewide.
    - vii. Annual number of class members for which claims were submitted for each of the Pathways' services including Mobile Crisis

Response.

viii. Annual total Pathways' expenditures to date.

v. Develop policies and processes for MCO care coordinators' interaction with the Child and Family Team.

vi. Begin monitoring MCOs' provider network for other services included in the Pathways' services as well as structural and process measures for care coordination and other services.

Model Component #3—Care Coordination

- Proposed activities for CY 2022:
    i. The Department was to review and seek approval from the Expert and Plaintiff regarding the decision support criteria to stratify Class Members.
    ii. The Department was to engage N.B. Subcommittee, Children's Behavioral Health Family Leadership Workgroup, DCFS staff, and other state agencies serving children to review and provide input to the decision support criteria implementation process.
    iii. The Department was to finalize the process and necessary documents (e.g., application materials and contracts) to select CCSOs.
- Accomplished activities:
    i. Provided the final decision support criteria to the Expert and Class Counsel. As discussed in paragraph 15, both the Expert and Class Council expressed concerns regarding the percentage of youth who were projected to be stratified in High Fidelity Wrapround and will be monitoring the stratification on a monthly basis. The Expert and the Plaintiff recommended the Department proceed with implementation but provide monthly reports on the stratification effort and any remedies the Department would take to improve efforts if the percent of youth stratified into High Fidelity Wraparound continued to be lower than an expected threshold (e.g., 3% of all youth for whom a current IM-CANS indicates a behavioral health need).
    ii. The Department did not review and solicit input from the N.B. Subcommittee regarding the decision support criteria process.
    iii. Selected an initial list of 24 agencies to serve as CCSOs for 28 Designated Service Areas (DSAs) in CY 2022. There are four additional DSAs that will need a CCSO in CY 2023.
    iv. Developed and implemented a readiness review tool and process for identification of CCSOs. This tool requested information on major areas of CCSO operations and programs. This tool was used by HFS staff prior to approval to perform an initial desk audit of CCSOs' ability to perform necessary functions.

v. Developed and implemented an onsite review process that fulfills the second step of the readiness review to determine if and when CCSOs should begin operations.
vi. Conducted program approvals beginning with readiness reviews in November 2022 for all selected CCSOs. HFS, in partnership with the Managed Care Organizations, began conducting on-site reviews in December 2022, completing one on-site visit. On-site visits for all selected CCSOs will be completed in CY 2023.
vii. Enrolled providers into the IMPACT system. As of December 2022, 15 providers had completed their enrollment in IMPACT to become a CCSO. All selected CCSOs will complete their IMPACT enrollment in CY 2023.
viii. Ensured all selected CCSOs had executed contracts with four MCOs as of December 2022. One MCO was still completing contracts with two CCSOs with anticipated completion in January 2023.
ix. Continued to recruit CCSOs in the remaining DSAs and plans to have the full complement of CCSOs statewide by later summer of 2023.
x. Held weekly "office hour" meetings with CCSOs collectively as of September 2022. Also held one-on-one meetings with CCSOs as needed. These meetings identified implementation issues and developed solutions to those issues.
xi. Identified a cohort of 21 youth who met the eligibility for the Pathways' services and began referrals of these individuals in December 2022 (earlier than projected) to one CCSO that was ready to initiate care coordination. As discussed in paragraph 17 of the Decree, the Department is implementing a process that gradually enrolls youth into Pathways' services and allows CCSOs to garner a more measured approach that is focused on ensuring the quality of these initial care coordination efforts.
xii. Developed an initial data set to track CCSO implementation efforts with input from the Expert. This initial data set is discussed in paragraph 9 and focuses on structural and some process measures that can be collected from CCSOs and administrative data (e.g., claims) in CY 2023.
xiii. Finalized Rule 141 that includes the appeal process for individuals to seek review of Department determinations regarding Pathways' services.
xiv. Identified approximately 5,000 youth who could enroll in Pathways.

- Activities recommended for next 12-month period:
  i. Continue the gradual process to identify and refer youth to CCSOs for providing the necessary care coordination. The Expert would expect 3,000 youth to be referred for care coordination over the next calendar year.
  ii. Identify, recruit, and enroll CCSOs for the remaining DSAs by the end of CY 2023.
  iii. Facilitate contract execution between the remaining CCSOs and MCOs.

iv. Report the information referenced in paragraph 9 of this report to track Pathways' services roll-out and to identify initial and ongoing CCSO access issues. This reporting may be phased in over CY 2023 given the availability of claims and other administrative data may be more robust later in the calendar year.
v. Continue to provide monthly information on the results of decision support criteria to the Expert. This should include specific information on the number of youth who are identified for both tiers of care coordination.
vi. Provide the Expert with information discussed in paragraph 15 regarding efforts if there are lower than anticipated referrals for Tier 1 High Fidelity Wrap Around Care Coordination.
vii. Conduct a review to determine if any adjustments to the decision support criteria are required after six (6) months of implementation.
viii. Report on the number of youth and caregivers who appeal service eligibility determinations and requests for changes to care coordination tiers to identify if there are systemic issues indicated by these appeals and strategies to address these issues. If significant, the Expert recommends the Department provide this information to the N.B. Subcommittee for their review and feedback.

Model Component #4--New Services, Providers, and Policies to Enhance Access to Behavioral Health Services

- Proposed activities for CY 2022:
  i. Identify the PCP working group members and meet with the work group to develop recommendations for the screening tool and process that primary care providers should use to screen, report the results of the screening, and make a timely referral to a follow-up CANS to identify need and connect to ongoing behavioral health services when appropriate.
  ii. Develop and implement an outreach and engagement strategy for organizations to provide other Pathway Program's services beyond care coordination and support (CCS).
- Accomplished activities:
  i. Identified and convened the Primary Care Physician workgroup members in cooperation with the State Chapter of the American Academy of Pediatrics (AAP) to identify the screening tools for identifying if a youth has a potential mental health condition.
  ii. Begun efforts to identify, recruit, and enroll providers of services in the Pathways' services beyond CCS. Enrollment for these providers has been slow—only a handful of intensive home-based providers and other service providers have been enrolled in the Medicaid Program.

iii. Developed a Communication Plan for potential providers of Pathways' services beyond CCS in cooperation with the N.B. Subcommittee. This Communication Plan focused on several phases of the implementation of Pathways. The Plan identified top-down and bottom-up strategies for HFS to consider to provide information on:
    1. How to access Pathway Services
    2. An overview of Pathways
    3. Coordination of Care and Child and Family Teams (CFTs)
    4. Home and community-based service array

HFS provided additional detail for each of these strategies. Details addressed:

    1. Activities HFS and CCSOs could consider for implementing each strategy
    2. Responsible parties to implement these activities
    3. Audience for these activities
    4. Communication modalities
    5. Specific strategies for implementation

- Activities recommended for next 12-month period:
    i. Continue to convene the PCP working group members and develop specific recommendations for the screening tool and process that primary care providers should use to screen, report the results of the screening, and make a timely referral to a follow-up CANS to identify need and connect to ongoing behavioral health services when appropriate.
    ii. Develop disposition measures for screening performed by PCPs serving Medicaid youth including referrals for youth for the completion of the IM+CANS to determine if ongoing community-based services are needed and if they are eligible for Pathways.
    iii. Develop a targeted provider recruitment strategy for each of the other Pathway services beyond CCS. This will require a cooperative approach between HFS and each MCO to have a consistent and clear strategy for network development.
    iv. Implement the communication plan developed in cooperation with the N.B. Subcommittee.
    v. Continue to enroll identified providers of other Pathways Services beyond CCS into the Medicaid program.
    vi. Ensure MCOs contract with enrolled providers on a timely basis.
    vii. Provide information to the Expert on a quarterly basis beginning in Q3 of CY 2023 regarding the network, by DSA, of intensive home-based, therapeutic mentoring services and family peer support.
    viii. Based on findings from vii. above, identify service gaps and work across MCOs to immediately address these gaps.

Model Component #5--PRTFs

- Proposed activities for CY 2022:
    i. Finalize the needs assessment and determine the potential number of PRTF beds needed and locations of these facilities.
    ii. Develop a model for PRTFs based on other states' successful efforts to offer these services, consistent with the Building Bridges approach that ensured that these services have been provided consistent with the amount and duration needed by youth in the exemplary states. This will include working with the Expert team to identify these models and determine their applicability to the Department's efforts to develop these facilities in-state.
    iii. Develop a selection process for PRTFs that is consistent with the exemplary models identified in ii. above.
- Accomplished activities:
    i. Continued efforts in CY 2022 to conduct an analysis by identifying children and youth with two or more hospitalizations and three or more mobile crisis response events over the past year to determine what areas of the state have the highest needs for PRTF beds. The Department has not completed this analysis and has indicated they will work with a university partner to finalize this analysis in CY 2023.
    ii. Developed some in-state short-term stabilization beds in April of 2022 for youth needing a transition from inpatient or as a diversion from inpatient behavioral health services. HFS continued to use the medical necessity criteria developed for the Interim Relief Program to assess and facilitate admissions to in-state short-term stabilization programs.
- Activities recommended for next 12-month period:
    i. Finalize the needs assessment and determine the potential number of PRTF beds needed and locations of these facilities.
    ii. Develop a model for PRTFs based on other states' successful efforts to offer these services, consistent with the Building Bridges approach that ensured that these services have been provided consistent with the amount and duration needed by youth in the exemplary states. This will include working with the Expert team to identify these models and determine their applicability to the Department's efforts to develop these facilities in-state.
    iii. Develop a selection process for PRTFs that is consistent with the exemplary models identified in ii. above.

Model Component #6: Implementation Training and Technical Assistance

- Proposed activities for CY 2022:

i. Implement care coordination training for CCSOs.
ii. Implement training for other providers of the Pathways' services.
iii. Develop protocols and provide training regarding the interface between CCSOs, Mobile Crisis Response, and Intensive Home-Based Services. This will ensure that CCSO and these providers have clear roles and responsibilities, especially when youth are in crisis and de-escalation and implementation of their crisis safety plan will be necessary.
iv. Develop education and training for care coordinators/caseworkers/case managers from other child service agencies on how children can access Pathways' services. HFS was to initiate training prior to the launch of Pathways.
v. Develop a cross-agency training plan in cooperation with other state child serving agencies for their respective staff regarding the N.B. Consent Decree, Pathways to Success, and the referral process for Pathways prior to the launch of the initiative.
vi. Develop a technical assistance approach, in cooperation with the university partner Provider Assistance Training Hub (PATH) and MCOs for CCSOs.

- Accomplished activities:
  i. Began care coordination training for the CCSOs initially selected in CY 2022. The Department reports they have provided training to over 123 staff who will be responsible for delivering care coordination or supervising care coordination staff. The Expert has participated in these trainings and provided feedback to the Department and the PATH program.
  ii. Initiated training for providers of other Pathways' services. This included training in therapeutic mentoring, family peer support, and intensive home-based services. The Expert has participated in these trainings and provided feedback to the Department and the PATH program.
  iii. In cooperation with PATH and MCOs developed, but has yet to implement, a technical assistance plan for CCSOs.
  iv. Developed and provided educational information and training for staff from other state child serving agencies who provide care coordination. This information was developed by HFS for the Illinois State Board of Education, the Department of Juvenile Justice, the Department of Children and Family Services, and the Department of Human Services, Divisions of Developmental Disabilities and Mental Health.
  v. Developed and implemented training to clarify the roles of the CCSO care coordinators, Mobile Crisis Response staff, and Intensive Home-Based staff.
- Activities recommended for the next 12-month period:
  i. Continue to provide initial training for the remaining CCSOs who will go live in CY 2023.

ii. Solicit feedback from individuals and agencies that participated in the training and, using this feedback, develop the necessary changes to the curriculum.
iii. Develop a process to meet with providers of Pathways' services during the initial months of implementation (similar to the recommendations regarding CCSO start up) to identify and address initial implementation issues on a timely basis. This process should identify the roles of the Department, PATH, and MCOs.
iv. Continue for PATH to train enrolled providers of other Pathways' services.
v. Develop an initial feedback process for CCSOs. This process should focus on whether care coordination is being delivered on a timely basis and how well CCSOs are providing critical care coordination functions (e.g., initial engagement and assessment, identification and facilitation of the Child and Family Team).

Model Component #7: Cross-Agency Collaboration on Model Development and Implementation

- Proposed activities for CY 2022:
  i. Solicit feedback from state child service agencies regarding the measures recommended in Model Component #2 for the N.B. Consent Decree to ensure alignment with the State's overall approach for children's behavioral health services.
  ii. Develop a process for developing critical reports for other state agencies that includes information referenced in paragraph 9 of this report. The Department was to meet with leadership from the other child-serving agencies to identify the information, format, and frequency of these reports.
  iii. Develop referral and participation protocols for other state and local child-serving agencies to use for referring children to Pathways. The protocols were to specify the expectations of participation by the other state child-serving staff (e.g., participation in CFT meetings, conflict resolution process, etc.).
  iv. Finalize the process flow specific to DCFS children, youth, and caregivers who will participate in the HCBS initiative.
- Accomplished activities:
  i. Developed the draft process flow for DCFS involved N.B. Class Members and continues to meet with DCFS weekly for review and approval.
  ii. The Department did not:
     1. Solicit feedback from state child serving agencies regarding performance measures.

2. Solicit feedback from state child serving agencies regarding reports for Pathways.
3. Develop a protocol for other state child serving agencies (other than DCFS) to refer youth to Pathways.
4. Finalize the approach for referrals to the Pathways' services for youth in DCFS care.

- Activities recommended for next 12-month period:
    i. Solicit feedback from state child service agencies regarding the measures recommended in Model Component #2 for the N.B. Consent Decree to ensure alignment with the State's overall approach for children's behavioral health services.
    ii. Develop a process for developing critical reports for other state agencies that includes information referenced in paragraph 9 of this report. The Department should meet with leadership from the other child-serving agencies to identify the information, format, and frequency of these reports.
    iii. Develop referral and participation protocols for other state and local child-serving agencies to use for referring children to Pathways. The protocols should also specify the expectations of participation by the other state child-serving staff (e.g., participation in Child and Family Team meetings, conflict resolution process, etc.).
    iv. Finalize the DCFS flow and begin referrals into the Pathways' services consistent with recommendations from the Expert in paragraph 17.

Progress on Key Provisions of the Consent Decree

As indicated earlier in this report, the Consent Decree was approved by the court in January 2018. The N.B. Consent Decree requires the Department of Health and Family Services (HFS) to develop, through an Implementation Plan, a behavioral health delivery "Model" to provide Class Members with a continuum of Medicaid-authorized and required mental and behavioral health services, including home- and community-based services. The Consent Decree sets forth various provisions that frame the purpose of the Consent Decree, implementation requirements, benchmarks for success, and other areas. Listed below are the key paragraphs from the Consent Decree, the Department's progress towards meeting the requirements in the paragraph, and recommendations set forth by the Expert.

V. The System for Providing Mental and Behavioral Health Services to Children under the EPSDT Requirements

7. The purpose of this Consent Decree is to design and implement a systemic approach through which Class Members will be provided with reasonable promptness the Medicaid-authorized, medically necessary intensive home- and community-based services, including residential services, that are needed to correct or ameliorate their mental health or behavior disorders.

The Department has designed, but not yet implemented, the systemic approach discussed in this paragraph. As indicated in previous reports, the Department is targeting the implementation of the Model for January of 2023. However, the Department started enrollments into the Model in December 2022 with a small cohort of youth being referred to one CCSO that was ready to begin operations. The Model provides a systemic approach meeting the expectations of this paragraph and sets forth the services that will be available for N.B. Class Members. The Department received the necessary approvals in June 2022 from CMS that allows HFS to implement the design. During CY 2022, the State undertook the following implementation activities after receiving approval from CMS for Pathways:

- Implemented training for care coordination, intensive home-based, therapeutic mentoring, and family peer support. Additional trainings for Pathways' services are scheduled to commence in early CY 2023.
- Selected CCSOs to provide both levels of care coordination discussed in paragraph 11-13.
- Executed the MCO contract amendment that sets forth expectations regarding the Pathways' services for the MCOs and the State.
- Finalized and promulgated administrative rules to govern operation of Pathways.
- Finalized the provider manual for the Pathways' services for CCSOs, including specific requirements for Mobile Crisis Response.

9. Defendant shall ensure the availability of services, supports and other resources of sufficient quality, scope and variety to meet their obligations under the Consent Decree and the Implementation Plan as necessary to achieve the Benchmarks required in Paragraph 35.

Defendant shall implement sufficient measures, consistent with the preferences, strengths and needs of the Class Members, to provide the services required by the terms of this Consent Decree.

Through the creation and implementation of Pathways, the State will offer an array of services and supports to Class Members starting in December 2022. However, there are several services the Department has already implemented, including Integrated Assessment and Treatment Planning (IATP), Mobile Crisis Response, and Crisis Stabilization.

IATP is the process HFS has developed for assessing the needs and strengths of all Illinois Medicaid-eligible children seeking behavioral health services, including N.B. Class Members, using the Illinois Medicaid Comprehensive Assessment of Needs and Strengths (IM+CANS). As described in the previous reports, the IM+CANS is a standardized framework for assessing the needs and strengths of all Medicaid youth that present with a mental health condition, including potential Class Members who require mental health treatment. All Medicaid enrolled providers who want to offer behavioral health services to Medicaid eligible children and families are required to be trained and certified annually to render the IM+CANS. Since 2018, the Department, through an external vendor, has provided training and certification for over 15,000 individuals to render the IM+CANS and, currently, there are 4,460 individuals with active certification to render IM+CANS. More information regarding the IM+CANS is provided in paragraph 17.d.

In the first and second annual Expert reports, the Expert recommended the Department increase the number of IATPs significantly in CY 2021 to better identify youth who could participate in Pathways. In the second reporting period, the Department projected 6,000 youth would be identified to enroll in Pathways through the IATP process. At the end of CY 2022, the Department identified approximately 5,000 youth through the IATP process as being eligible for Pathways. As discussed earlier, the Department has taken an approach, similar to other states, to enroll youth on a more gradual basis. This allows the State to provide better oversight of the implementation of care coordination and allows CCSOs' to recruit and retain staff given the overall workforce shortage.

HFS has established Mobile Crisis Response (MCR), which includes face-to-face crisis screening, short-term intervention, crisis safety planning, brief counseling, consultation with other qualified providers to assist with the client's specific crisis, referral and linkage to community services, and, in the event that the client cannot be stabilized in the community, facilitation of a safe transition to a higher level of care. In addition, the Department has developed and implemented a training curriculum for MCR providers. From January 2022 through December 2022, there were 16,543 unduplicated children and youth under the age of 21 who received MCR.

In addition to MCR, Crisis Stabilization was created and offered to youth following a Mobile Crisis Response event. Crisis Stabilization includes observing, modeling, coaching, supporting the implementation of the client's Crisis Safety Plan, performing crisis de-escalation, and

responding to the behavioral health crisis, when necessary. Crisis Stabilization is to be provided in the youth's home or other community setting where the crisis has occurred. Youth enrolled in Pathways will have access to Crisis Stabilization Services although this service is not exclusive to Pathways. From January 2022 through December 2022, there were 1,502 unduplicated children and youth under the age of 21 who received Crisis Stabilization.

In the second annual Expert report, the Expert recommended the Department undertake the following various activities to improve access to and the quality of MCR services:

- Develop key reporting indicators and an MCR dashboard to ensure MCR services are provided on a timely basis.
- Develop a monitoring approach to review a sample of youth who have received MCR to ensure youth have a crisis/safety plan and the plan has sufficient information to provide direction to the youth, caregiver, crisis providers, and case managers when a crisis occurs.
- Based on the findings of this review, develop a technical assistance approach to assist providers across the state to ensure the quality of MCR services.

The Expert requested the Department conduct these reviews early in CY 2022 and report to the Expert the findings of their monitoring efforts. The State did not perform this review as proposed in CY 2022 given the delay in obtaining approval from CMS for Pathways. HFS has stated they will undertake this review in 2023 and has requested assistance from the Expert to design and implement this review.

As indicated in the first report, the Department had very few children participating in the Intensive In-Home Services (IHS) pilot project through the State's 1115 Waiver program due to the lack of incentives for providers to offer this service, lack of clarity and training regarding the intensive in-home benefit, and a complicated and poorly understood reimbursement methodology. The Department included IHB in the Pathways in order to align it with other services targeted toward the N.B. Class under a single authority instead of as a stand-alone service. Therefore, the Department transitioned Intensive In-Home Services under the 1115 waiver to Intensive Home-Based (IHB) services under the 1915(i) benefit in CY 2022. The Department established the service specifications and provider requirements. The Department states they will offer this service in January of 2023 along with the other Pathway services approved by CMS.

IHB is a foundational service to N.B. Class Members, yet interest and enrollment of IHB providers was minimal as of December 2022. The Department engaged the N.B. Subcommittee to identify potential strategies for identifying and recruiting providers for services, including IHB. The N.B. Subcommittee produced a Communication Plan in 2022 regarding these efforts. The Department has begun to implement this plan with enhanced identification and recruitment activities including hosting additional informational webinars on IHB and the other Pathways' services. In addition, PATH offered training opportunities for providers seeking to offer IHB services in the fall of 2022. These training events were cancelled when there was not a sufficient number of providers expressing interest in attending IHB training. HFS has reported

they had one IHB provider located in Cook County enrolled in IMPACT as of December 2022. HFS acknowledges that without more providers of this service in place, youth in the Class will not have access to one of the most important services included in the array of Pathways services. States that have implemented similar models report a significant percentage of youth with significant mental health needs and participating in care coordination efforts use this service. The Expert recommends that HFS continue outreach and engagement efforts and utilize MCO provider network resources and requirements to recruit providers for these critical services.

As recommended in the first and second annual Expert reports, the Expert requested HFS develop projections regarding the number of children, youth, and caregivers that will likely need Intensive Home-Based services in the first and subsequent years of Pathways. The Expert recommended the Department project the need for this service early in CY 2022 and closely monitor the number of Intensive Home-Based providers to ensure a preliminary network of these providers is available to N.B. Class Members. Given the more gradual implementation, the Department should undertake this effort to reflect the actual growth and need for this service by Pathways' enrollees.

In the second annual report, the Expert recommended the Department develop information regarding Pathways to raise the awareness of the N.B. Consent Decree and Pathways, including information on how to make referrals to the program, the eligibility criteria for participating in the program, information regarding the services available under Pathways, Care Coordination, and the Child and Family Team (CFT) process. As indicated in the second report, the Department developed these informational materials and developed and implemented a fairly robust dissemination strategy in CY 2021 for stakeholders, including youth and families, advocacy organizations, state child-serving agencies, providers, and MCOs. HFS has shifted their communication strategy and are using a more titrated approach to identify youth who are eligible for Pathways and subsequent referrals to CCSOs for care coordination. The Expert agrees with this approach. This has necessitated HFS to have a more targeted approach to communication regarding Pathways that considers the current availability of CCSOs and care coordination staff. HFS indicates they are working with existing CCSOs to disseminate materials in their respective DSA regarding Pathways. They have also included a revised communication strategy developed in cooperation with the N.B. Subcommittee.

In the previous two reports, the Expert recommended the Department develop consistent access standards for each service and support identified in paragraph 11. Federal managed care regulations require the State ensure MCOs maintain a provider network that is sufficient to provide timely access to all medically necessary covered services (including services offered through Pathways, once federally approved) to eligible members. The Expert recommended the Department develop access standards to be used by all MCOs. The Department included these standards in the MCO contracts. The Expert reviewed final language in these contracts and agrees with these standards. It should be noted, CMS has released a notice of proposed rulemaking (NPRM) that would review current federal access standards. If these rules are

finalized before December 2023, HFS will need to review and possibly revise the standard later in CY 2023 or in 2024.

In the two previous annual Expert reports, the Expert recommended the Department develop a strategy for monitoring access to services in paragraph 11. The various discovery and remediation strategies identified in the 1915(i) SPA for Pathways, when implemented, will provide valuable information on whether a child/youth is receiving services in their plan. Once Pathways goes live, the Department should focus the N.B. Subcommittee efforts to solicit information on access issues or service gaps.

In the first and second reporting periods, the Expert recommended the Department develop measure sets for various measure categories (structural, process, and outcomes). HFS has drafted an initial quality assurance (QA) plan which was shared with the Expert in October 2022. The Expert provided comments on this QA plan. The Department has yet to finalize this QA plan. As indicated in the previous report, it will be important for the Department to develop these measures to inform the standards necessary to meet paragraph 35 of the Consent Decree. The Expert continues to recommend the Department develop measure sets for the following categories:

- Structural Measures that will ensure that the Model infrastructure is being established in an efficient manner. This information should be available monthly during the first year of the start-up (CY 2023). At a minimum, this should include information regarding the projected number of providers that will be necessary to ensure adequate access to these services. In addition, the Department should provide information monthly on the number of individuals enrolled and participating in Pathways and, when claim information is available, the number of children receiving each service.
- Process Measures that assess whether specific activities are implemented consistent with standards set forth by the Department. These measures should be developed in CY 2023 and implemented in January 2024. Process measures can also include an assessment of whether a particular service is being delivered consistent with a fidelity tool. The Department has developed an initial set of process measures in the approved Pathways to Success 1915(i) application, including:
    - Service plans address assessed needs of Pathways' participants.
    - Providers of services in Pathways meet the qualifications for specific services.
    - Processes and instruments for determining eligibility into Pathways are applied appropriately.

  While these measures are important, additional process measures should be developed to ensure that children, youth, and their caregivers receive services consistent with their needs. Additional process measures the Department should consider are:
    - Whether services identified in the assessment are reflected in service plans.
    - Whether services are delivered consistent with the scope, amount, and duration as identified in the plan.

- Whether services are being delivered consistent with their evidence base including High Fidelity Wraparound Care Coordination and Support.
- Follow up after a hospitalization or an ED visit for mental health purposes.

In addition, the Expert recommends HFS perform an initial review of a sample of youth participating in Pathways. Specifically, the Department should perform this review in partnership with PATH on all CCSOs in operation for more than three months. The review should include reviewing the first two bullets discussed above (e.g., assessment and services delivered with the services plans).

- Outcomes Measures that assess whether the Model is achieving its intended results. These measures are more challenging to develop since there is not a national set of outcome measures for some of these services. However, several states with similar approaches have developed outcome measures that include:
    - Increased school attendance
    - Decreased involvement with the juvenile justice system
    - Increases in a child or youth's functioning in key areas
    - Satisfaction with services (child, family, and caregivers)
    - Admission to EDs and inpatient hospitals for behavioral health issues
    - Admission to in and out of state PRTFs
    - Rate of out-of-home placement
    - Lengths of stay in these out-of-home placements.

  These states have often used a combination of assessment data (e.g., IM+CANS), utilization, and other information to be able to create these measures.

HFS is planning to require CCSOs to report more detailed information regarding youth enrolled in care coordination. Specifically, HFS will request information at 30, 60, and 90 days post enrollment of:

- Strengths, Needs and Cultural Discovery process performed
- Number of IM+CANS completed
- Initial and ongoing CFT meetings

In the second annual Expert report, the Expert recommended the Department develop these initial measures during CY 2022 in cooperation with various stakeholder groups, state agency representatives, and MCOs who will be the conduit for data and other information to support these measures. At a minimum, the Expert recommended that structural measures should be shared with these groups prior to the start of Pathways. In addition to these structural measures, the Expert recommended the Department collect and track utilization and access issues early in the implementation process. As of December 2022, the Department has yet to finalize structural measures. They have agreed to track utilization of Pathways services to identify early access issues in CY 2023. The Expert continues to

recommend HFS finalize the structural measures and review these measures with the N.B. Subcommittee.

10. Annual budgets submitted by Defendant on behalf of her agency shall request sufficient funds necessary to develop and maintain the services, supports and structures described in the Consent Decree for which Defendant's agency has statutory and regulatory authority. Nothing contained in this Paragraph shall be deemed to create or operate as (a) a condition or contingency upon which any term of the Consent Decree depends; or (b) a circumstance entitling Defendant to alter, amend or modify the implementation or timing of Defendant's obligation under the Consent Decree.

The Governor's FY 2023 budget did not have an explicit line item in the HFS budget for Pathways; however, the funding was included in HFS's overall operating budget. HFS did release a notice for public comment regarding Pathways and stated the first-year budget for Pathways is $100 million. HFS has indicated there is no change to the FY 2024 budget.

In addition, the Department has budgeted $18 million to support CCSOs in their efforts to implement Pathways. These funds are available through March 2025. Providers of Pathways services will have an opportunity to apply for an additional $25 million to support the implementation of these services in CY 2023.

11. Subject to the provisions of this Consent Decree, Defendant will make available to Class Members a continuum of medically necessary mental and behavioral health services authorized and required by the EPSDT requirement of the Medicaid Act (see 42 U.S.C. §§ 1396a(a)(43); 1396d(a)(4)(B); 1396d(a)(13)(C), 1396d(a)(16), and 1396d(r)(5)).

12. The continuum of care will be provided through the development of a Medicaid behavioral health delivery model ("Model"). The process and principles of the Model shall be set forth in the Implementation Plan. Among other matters, Defendant shall be allowed to incorporate SOC, care coordination, case management, and community integration into the Model and Implementation Plan.

13. The Model shall be developed and implemented in phases and the Medicaid services included in the continuum of care under the Model shall be set forth and defined in this Consent Decree and the Implementation Plan. The continuum of care available to Class Members shall include all medically necessary home- and community-based services and supports, as well as inpatient psychiatric services in a Psychiatric Residential Treatment Facility ("PRTF"), that are authorized, approved, and required under 42 U.S.C. § 1396d(a)(16), 1396d(h) and implementing federal regulations and that are eligible for Federal Financial Participation. The Implementation Plan shall describe a method to triage or otherwise phase in the utilization of PRTF services during the development of home- and community-based services in the Model so as to serve Class Members in the least restrictive appropriate setting and avoid the unnecessary

institutionalization of Class Members. Nothing in this Consent Decree shall require or authorize any particular service to be covered or made available to any Class Member if such service is beyond the federal Medicaid provisions that authorize services. This Consent Decree shall not override or supersede applicable Medicaid law, and nothing in this Consent Decree shall require the provision of any type of service prior to approval from CMS.

Paragraphs 11 through 13 are addressed together. As indicated in the previous Expert report, the Department has developed a Model that sets forth the specific services and supports that will be provided to the N.B. Class. This Model was described in the Department's Initial Implementation Plan (December 2019), as well as the First Revised Implementation Plan (October 2022), and in the final approved 1915i application for Pathways in June 2022. This model includes:

- Care Coordination—including two levels of care coordination intensity to meet the behavioral health needs of Class Members: High Fidelity Wraparound (high intensity level) and Intensive Care Coordination (moderate intensity level).
- Intensive Home-Based—services provided directly to children and their caregivers in home and community settings to 1) improve child and family functioning; 2) improve the family's ability to provide effective support for the youth; and 3) promote healthy family functioning. Interventions are designed to enhance and improve the family's capacity to maintain the child within the home and community, and to prevent the child's admission to an inpatient hospital or other out-of-home treatment settings.
- Respite—including activities to relieve stress and maintain individuals in the home and community, as respite services provide safe and supportive environments on a short-term basis for children with mental health conditions when their families need relief.
- Family Peer Support—including activities that assist the family to engage in services and supports, assisting the family in self-advocacy, assisting in systems navigation, providing information about the child's behavioral health needs and strengths, identifying and building natural supports, and promoting effective family-driven practice.
- Therapeutic Mentoring—assists the child or youth with improving their ability to navigate various social contexts, observing and practicing appropriate behaviors and key interpersonal skills that build confidence, improving emotional stability, demonstrating empathy, and enhancing positive communication of personal needs without escalating into crisis.
- Therapeutic Support Services—help children and youth find a form of expression beyond words or traditional therapies in an effort to reduce anxiety, aggression, and other clinical issues while enhancing service engagement through direct activity and stimulation.
- Individual Support Services—non-traditional activities, services, and goods that provide therapeutic supports to children with significant behavioral health needs in support of the child's person-centered service plan and serve as an adjunct to traditional therapeutic services the child receives.

As indicated earlier in this report, IATP, Mobile Crisis Response, and Crisis Stabilization Services are also available to youth and caregivers enrolled in Pathways. These services are available to both N.B. Class Members and to Medicaid beneficiaries who need these services and who are not enrolled in Pathways.

As indicated in the first annual Expert report, in the opinion of the Expert, the Department has set forth the necessary possible services for the members of the N.B. Class. Once services are initiated and service planning commences, there will be additional services the Department may want to consider based on children, youth, and caregiver information and preferences. The Department has made a commitment to research and explore developing practices and services that may better inform or improve the Model for Class Members and has stated that future Implementation Plan reviews may include different or modified practices or services as necessary to improve the Model and better address the needs of Class Members.

During the previous reporting period, the Department continued to take steps to implement services offered in Psychiatric Residential Treatment Facilities (PRTFs). Currently, the Medicaid program in Illinois does not include systemic coverage of behavioral health PRTFs, thus there is no behavioral health PRTF Medicaid provider network. The Department does fund services in PRTFs in other states for N.B. Class Members. Currently, there are 24 N.B. Class Members whose services are funded by HFS in these out-of-state facilities. The Department also expanded resources in its Interim Relief program to support N.B. Class Members to identify appropriate providers and receive these out-of-state PRTF services. The Department is continuing to plan for the development of in-state PRTFs while the home and community-based service delivery system is being built to sufficient capacity to effectively serve Class Members.

While the Expert still contends a PRTF benefit should not be implemented prior to the home and community-based services offered through Pathways, the Expert continues to recommend the Department begin planning activities for the PRTF benefit. In the previous two annual Expert reports, the Expert recommended the Department initiate efforts to identify the in-state PRTF capacity needed and continue efforts to explore other states' efforts to implement the Building Bridges Initiative as part of the design and specifications for this service. HFS did propose to develop a methodology to initially identify the need for PRTF beds on a regional basis. The Expert requested the Department provide the methodology and findings from this analysis. HFS indicated they have not completed this effort and will engage a university partner to assist with this effort. Given the import of this service and stakeholder interest in PRTF, HFS should make developing these projections a priority for CY 2023. Once developed, the Expert is requesting information from these efforts to begin to size the initial need for PRTF capacity.

In the previous annual Expert report, the Expert recommended the Department develop necessary PRTF policies, procedures, and administrative rules. The initial and First Revised Implementation Plans indicate that the Department will utilize clinical and treatment concepts from the Building Bridges Initiative and quality requirements from the Family First Prevention Services Act to develop the treatment expectations for time limited PRTFs and will work in close

collaboration with the Department of Children and Family Services in this process[1]. The Expert did not make recommendations to the Department and stakeholders regarding the PRTF Model this year but will do so once the analysis of the initial need for PRTF capacity is provided. As stated in the second annual report, the Expert will assist in the initial design of the PRTF benefit and implementation strategy.

15. Services provided through the continuum of care shall be based on clinical decisions and medical necessity criteria as determined by Defendant, consistent with applicable law. Defendant may make medical necessity determinations and establish utilization control procedures through the use of such entities as Quality Improvement Organizations or other entities chosen by Defendant. Defendant shall retain the authority to establish medical necessity criteria and cost sharing as permitted under Title XIX and, where applicable, approval by CMS. Defendant may require Class Members to enroll with a managed care entity for any or all care coordination, case management and services. Nothing in this Consent Decree shall prohibit Defendant from using managed care entities as determined by Defendant and authorized or required under applicable law. Any services provided pursuant to this Consent Decree shall remain subject to all applicable requirements herein, even if arranged through managed care entities or other third parties.

The Department has developed criteria and processes for identifying N.B. Class Members and determining eligibility for Pathways. The IM+CANS and decision support model are the primary methods the Department will use to determine eligibility for services in Pathways. The initial decision support criteria was provided to the Expert and Class Counsel for their review and approval as required under the Consent Decree. While the initial decision support criteria was thorough, application to current IM+CANS data resulted in what the Expert and Class Counsel observed as fewer youth than projected to be referred to Tier 1 High Fidelity Care Coordination. The Expert and the Class Counsel recommend at least 3% of youth for whom an IM+CANS indicates a behavioral health need should be stratified by the decision support criteria into Tier 1 Care Coordination provided by CCSOs. This threshold is based on reviews and discussions with the IM+CANS developer and other states. The Expert and the Class Counsel recommended HFS move forward with the current decision support criteria and process developed to date for identifying N.B. Class members and eligibility for Pathways. The Expert and Class Counsel requested information on a monthly basis in 2023 that closely tracks HFS decisions regarding assignment of care coordination tiers. If the number of individuals for whom the IM+CANS indicates a behavioral health need that are identified by the decision support criteria as appropriate for Tier 1 falls below the 3% threshold, the Expert and Class Counsel recommended HFS implement a review process. This includes a review of:

[1] https://www.buildingbridges4youth.org,

- The total number of Tier Change Requests received by HFS for a youth's tier to be changed during the initial implementation of Pathways. The focus would be on those youth that HFS does not approve of moving from Tier 2 to Tier 1.
- The number of Tier Change Requests and the disposition of these requests (subsequent to HFS review and determination).
- Information regarding issues that HFS identifies during review of Pathways Tier Change Requests.
- A review of the quality of the IM+CANS originally completed for youth in Tier 2, as well as other information such as service access, provider fidelity, or other identified quality measures or other indicators that may reflect issues with the decision support criteria.

The Expert and his team recommended meetings to review and discuss this information and, when appropriate, allow the Expert and his team timely access to records to carry out any further analysis of the decision support model. The Expert will work closely with HFS staff to perform this analysis and provide any findings of discrepancies that may inform further implementation of the decision support criteria. The current decision support criteria can be found at:
https://hfs.illinois.gov/content/dam/soi/en/web/hfs/sitecollectiondocuments/01232023behavioralhealthdecisionsupportmodeldescriptionfinal.pdf

A significant number of youth participating in Pathways are also receiving care coordination through the Health Choice Illinois MCOs. In the previous reporting period, the Department developed a process for MCO care coordinators to interface with the CFT. Specifically, these care coordinators serve as the liaison between the MCO and the youth's CFT and will provide education and navigation, as needed, of the MCO's processes and requirements regarding covered benefits. In addition, the MCO care coordinator will assist the CFTs in their efforts to identify providers in their networks and to identify other resources to ensure access to services set forth in the youth's plan of care and assist the CFT to identify and reduce barriers to accessing care. The MCO care coordinator will be invited to attend the CFT as requested by the youth and family. Policies and procedures were developed and provided in the CCSO provider manual prior to Pathways going live. The Expert is requesting that HFS gather information in CY 2023 from CCSOs, MCOs and Child and Family Teams to determine if this policy is being implemented uniformly and producing the intended results.

The Department requires Respite, Therapeutic Support Services, Individual Support Services, and Psychiatric Treatment Facility Services to be prior authorized. For services other than PRTF, these prior authorization criteria were to be developed within the first quarter of CY 2022. The Department has developed this prior authorization criteria in the CCSO provider manual for TSS and ISS. The Expert has reviewed and concurs with the criteria.

For PRTF services, medical necessity criteria will be applied as part of prior authorization and should be developed during the Department's efforts in Paragraph 13 regarding PRTFs. The Department should develop the medical necessity criteria for PRTFs as part of the efforts in this paragraph. The Expert is requesting to review this criteria before finalization.

16. After the Approval Date and before final approval of the Implementation Plan, the parties agree to work collaboratively to address the needs of Class Members who require PRTF services on an emergent basis.

While the Department focuses initial implementation efforts on the development of home- and community-based services as required by Paragraph 13, it has and will continue to address the needs of Class Members demonstrating medical necessity for a PRTF level of care through the current Interim Relief process. The initial and First Revised Implementation Plans set forth the specification of the Interim Relief Process. The Expert has reviewed this process and concurs with the Department's Interim Relief approach. During this reporting period there were 34 children and youth referred to PRTF using this process. Twenty four of the 34 received PRTF services in out-of-state facilities. The 10 youth who were referred but did not receive placement through the Interim Relief Process were either placed under other programs/state agencies or did not respond to requests for information. During this reporting period, the Department worked with a university partner to increase case management resources to assist Interim Relief participants in locating appropriate providers and support them and their families during participation in the process, including transition back to their community. In addition, in CY 2022 the Department established a program with a provider in the Northern Illinois area to provide short-term intensive residential treatment services to Interim Relief participants as an initial step to address youth with significant behavioral needs who are at-risk of out-of-state placement. In CY 2022, the Department reports that the provider of this service has accepted a very limited number of youth who were referred for the service, resulting in minimal utilization of this short-term intensive residential treatment service. The Expert is requesting information from HFS regarding this utilization and continued need for that level of residential care.

17. Defendant shall timely develop and implement a Model in the Implementation Plan that shall, at a minimum:

a) *Include a structure to link Class Members to medically necessary services on the continuum of care.*

The Department, in consultation with the Expert, developed and has started to implement the processes for engaging children, youth, and caregivers to receive the continuum of behavioral health services offered though Pathways. Specifically, the Department developed a process flow that establishes how children and youth (who are not in DCFS care) are identified as a Class Member, enrolled in Pathways, and identifies how youth will be offered either level of care coordination from the CCSO, the CFT process, and the service delivery options. This flow can be found on page 9 of the following link:
https://www2.illinois.gov/hfs/SiteCollectionDocuments/Pathways%20to%20Success%20Program%20Overview.pdf

The flow for Class Members in DCFS care has not been finalized between the HFS and DCFS. HFS has continued meeting with DCFS weekly during this reporting period, but DCFS continues

internal discussions to finalize the Class Member process flow. The Expert finds this unfortunate given youth in child welfare systems in other states are often significant users of services offered through programs similar to the Pathway Program. The Expert continues to recommend the Department finalize and operationalize this flow in the next 180 days and develop the operations protocols discussed earlier in this report that will provide information to DCFS caseworkers on how youth in custody can access and participate in Pathways. The Expert understands HFS has been working closely with DCFS staff to finalize these process flows and policies to offer youth in DCFS care access to services provided in Pathways. The Expert's understanding is that HFS is willing and well positioned to refer youth in the care of DCFS, but DCFS has not agreed to begin referrals. The Expert recommends HFS work with DCFS in CY 2023 to refer a pre-determined number of youth in DCFS care who meet the Pathway Program's eligibility criteria to CCSOs for services. The Expert recommends the Department collect and analyze information from claims or other administrative data to evaluate youth in DCFS custody and their participation in the Pathways' services.

b) *Provide statewide medically necessary mental and behavioral health services and supports required and authorized under the EPSDT requirement of the Medicaid Act that are sufficient in intensity and scope and appropriate to each Class Member's needs consistent with applicable law.*

c) *Provide notice to HFS-enrolled Primary Care Physicians ("PCPs") who perform periodic and medically necessary inter-periodic screenings to offer Class Members and families the opportunity to receive a mental and behavioral health screening during all periodic and inter-periodic screenings;*

EPSDT requires states to provide comprehensive services and furnish all Medicaid coverable, appropriate, and medically necessary services needed to correct and ameliorate health conditions, based on certain federal guidelines. EPSDT requires physicians and other practitioners to screen for certain conditions, including developmental and behavioral screening. These screenings are essential to identify possible delays in growth and development, as well as behavioral health challenges. The N.B. Consent Decree recognizes the need to improve behavioral health screening for children and youth who may have mental health or behavioral issues and to create the necessary referral processes for primary care practitioners to refer children for additional assessments or treatment and supports.

The initial and first revised Implementation Plan set forth a strategy for improving screening and referral for children and youth in Illinois with possible mental health and behavioral conditions. Specifically, the plan requires the Department to work with physician associations, psychiatric associations, and stakeholders to determine which nationally recognized screening tools should be utilized by PCPs as behavioral health screening tools. In addition, the Department, as part of the plan, will work with MCOs, physician associations, and other partners to conduct education and training for PCPs who serve Medicaid-eligible youth and families. The training will:

- Reinforce the EPSDT requirements to offer screening at all routine and periodic medical appointments.
- Provide information on how PCPs can use these screening tools.
- Determine how the PCPs are to notify MCOs of the screening results.
- Support PCPs to make referrals to community mental health providers if a screening indicates further assessment may be appropriate.
- Provide information for PCPs regarding Pathways and the role of the CCSOs.

In 2022, the Department launched a workgroup with the groups discussed above. However, the workgroup has yet to adopt this tool or provide training to PCPs on the tool. In the second annual Expert report, the Expert recommended the Department convene the workgroup within 90 days and finalize the recommended tools and begin training on this tool within 180 days of this report. HFS did convene the workgroup toward the end of CY 2022. The Expert attended the workgroup meeting. The agenda focused on briefing other members regarding the charter for the workgroup and discussing next steps including the identification of potential instruments for PCPs to use to perform behavioral health screenings consistent with EPSDT. The Expert recommends this workgroup complete its charge by December 2023.

> *d) Implement a standardized assessment process, including an assessment tool that shall be utilized statewide, for the purpose of determining Class Members' strengths and needs and informing treatment planning, medical necessity, intensity of service, and, as applicable, appropriate services for Class Members;*

As indicated in the second annual Expert report, the Department developed and implemented a standardized assessment process to meet the intent of this paragraph. The standardized assessment tool created for this process is the Illinois Medicaid–Comprehensive Assessment of Needs and Strengths (IM+CANS). The IM+CANS was described in Paragraph 9. The Department, through its partnership with PATH, has developed and implemented the necessary training and certification process for providers to deploy the IM+CANS. As of December 31, 2022, there are 4,460 individuals that are IM+CANS certified.

The Department has developed, and the Expert and Class Counsel have provisionally approved, the decision support criteria that will be applied to IM+CANS data to operationally identify N.B. Class Members who are eligible to receive Pathways' services.

> *e) Establish a stratification methodology of identifying which Class Members qualify for particular services (including sub-acute care), the intensity of service delivery, and the intensity of care coordination, based upon the standardized assessment process and consistent with the requirements of the Consent Decree;*

As indicated in paragraph 17.d, the Department has developed a decision support model using criteria applied data resulting from the IM+CANS to meet the intent of this paragraph. Information collected from the IM+CANS serves as the foundation of the stratification

approach. As discussed in paragraph 15, the Expert and the Class Counsel are requesting HFS provide information on a monthly basis regarding the number of youth who receive an IM+CANS and who had an identified behavioral health need, the results of the application of the decision support criteria for recommended participation in Pathways, and the specific tiers of care coordination offered to youth and caregivers.

> *f) Establish tiers of care coordination consistent with the requirements of the Consent Decree, with caseloads and service intensity consistent with the stratification and assessment process. The Implementation Plan may provide that Class Members demonstrating the greatest needs and qualifying for intensive community services and sub-acute inpatient services shall qualify for intensive care coordination, such as High Fidelity Wraparound services, as defined by the National Wraparound Initiative (http://nwi.pdx.edu/). To the extent Class Members qualify for the services set forth in this Paragraph, such services will be provided in a timely manner;*

As indicated previously in this report, the Department has developed two tiers of care coordination. These two tiers include:

- Care Coordination Services—High Fidelity Wraparound (CCSW) delivered in accordance with national standards referenced in the paragraph above for these services and delivered with a caseload of no more than 1 care coordinator to every 10 children (1:10). Children receiving CCSW will receive child and family team (CFT) meetings a minimum of every 30 days as well as frequent in-person and phone contact.
- Care Coordination Services – Intensive Care Coordination (CCSI) delivered in accordance with wraparound principles but with less frequent contact requirements with the child and family, as appropriate to stabilize the child's moderate behavioral health needs. CCSI care coordinators will have a caseload of no more than 1 care coordinator for every 25 children (1:25). Children receiving CCSI will receive CFT meetings a minimum of every 60 days as well as frequent in-person and phone contact.

The Department has established critical timeframes and requirements for CCSO care coordinators (by Tier) to perform important functions. Table 1 below provides an overview of these expectations.

Table 1: Care Coordination Requirements

Requirement/Activity	CCSW (Tier 1)	CCSI (Tier 2)
Care Coordinator caseload	1:10 average, 1:12 maximum	1:25 average; 1:30 maximum
Supervisor caseload	1:8 average, 1:10 maximum	1:8 average, 1:10 maximum
Initial outreach to family	7 days after receiving referral	7 days after receiving referral
Initial Crisis Prevention and Safety Plan (CPSP)	10 days after enrollment	10 days after enrollment
Initial strengths, needs, and cultural discovery process completed	21 days after enrollment	21 days after enrollment

CFT meeting frequency	Initial: 30 days after enrollment Ongoing: Every 30 days or 48 hrs. after MCR event	Initial: 30 days after enrollment Ongoing: Every 60 days or 48 hrs. after MCR event
IM+CANS Development and Ongoing Review	Every 30 days	Every 60 days
CPSP Review	Every 30 days	Every 60 days
In-person contacts	2 x month	1 x month
Telephonic contacts	2 x month	3 x month

The Department, through the readiness review process, ensures each CCSO has the necessary and qualified staff for providing each tier of care coordination. The Department has also designed an initial referral process for each CCSO that is based on initial staffing and the ratios for each Tier with the intent to transition to a more permanent referral process once CCSOs have sufficient staffing capacity. The Expert has participated in N.B. Subcommittee meetings where members have inquired whether CCSOs can have higher case ratios initially (e.g., more than 10 or 25 youth on a caseload) and if a CCSO can have a care coordinator that serves both CCSW and CCSI youth (e.g., blended caseloads). The Department has been clear in written and verbal guidance that neither higher nor blended caseloads are acceptable, citing their continued commitment to having CCSOs provide care coordination with fidelity to the High-Fidelity Wrap Around model. The State will track referrals for both levels of care coordination by CCSO on a monthly basis and will not allow any agencies to exceed these referral limits. The Expert recommends HFS track the caseload ratios of care coordinators closely during start-up and has requested information on these caseloads based on the Department's monitoring efforts.

g) Prepare and implement with reasonable promptness individual plans of care for each Class Member to serve the Class Member in the least restrictive setting appropriate to meet the Class Member's treatment goals. Individual plans of care shall describe the Class Member's treatment goals, objectives, and timetables for achieving these goals and objectives, including moving to less intensive levels of service, and that set forth the specific services that will be provided to the Class Member and family, including the frequency, intensity and providers of such services. The individual plans of care shall be reviewed at least annually and updated as needed to reflect the changing needs of the Class Member and family, using, as necessary, re-assessment and other clinical instruments to identify the changing needs of the Class Member and family. Individual plans of care may be prepared by or in conjunction with one or more MCEs;

As indicated in the second report and discussed in this paragraph (section e.), the Department has developed standards that set forth timeframes for development and review of a plan of care for Class Members who participate in Pathways. The timeframes are consistent with the Implementation Plan and require the CFT (discussed in the paragraph below) to meet on a regular basis (every 30 days for children and youth receiving CCSW and every 60 days for children and youth receiving CCSI). The Department has also developed policies that require a plan of care to be revisited and potentially revised if the child or youth's condition changes between these established timeframes. The Department has required all CCSOs' care

coordination staff be trained on the plan of care process prior to going live. The Department's training efforts were discussed in more detail in the second report.

In the previous two reports, the Expert recommended the Department develop reporting requirements and a tracking system early in CY 2022 to determine if the standards for the development and review of individual plans of care are being met. As of December 31, 2022, the Department had not developed these requirements or a tracking system and reported that the work will begin early in CY 2023. The Expert continues to recommend HFS develop these requirements and a tracking system immediately. It is imperative the Department determine whether plans of care are developed for each youth participating in Pathways. In addition, the Expert recommends HFS ensure these plans of care being developed are consistent with HFS standards (timeliness and quality of the content). While the Department creates this tracking system, the Expert recommends HFS review a sample of assessments, plans of care, and CFT documentation to determine if CCSOs are meeting the requirements set forth in this paragraph. This review should be conducted on each CCSO after six months of going live. This review should be performed as a coaching and technical assistance exercise and not an audit of a CCSO's care coordination effort. This includes a review of:

- Documentation to identify if the initial outreach to youth and caregivers was successful or if issues prevented successful and timely engagement.
- The presence and quality of an initial crisis prevention and safety plan.
- Whether the care coordinator initiated the Strengths, Needs, and Cultural Discovery process and the findings from this process.
- If the CFT was convened on a timely basis and any documentation that might be helpful for reviewing whether the CFT process was performed using the principles set forth by HFS in the CCSO provider manual. At a minimum HFS should identify whether the youth and caregiver were present and involved in the process.
- If individual plans of care include treatment goals, objectives, and timetables for achieving these goals and objectives and whether the plan includes the frequency, intensity, and providers of services recommended by the CFT.

HFS should meet with CCSOs collectively and individually prior to these reviews to explain the purpose and process for these reviews and to address any concerns or issues raised by CCSOs regarding this review. As indicated above, reviews should be viewed as coaching/technical assistance opportunity and not as an audit. The Expert recommends reviews be conducted by the PATH. PATH should work with each CCSO to organize and conduct the review. Initially, these reviews may be done by reviewing CCSO documentation and virtual discussions with each CCSO. The result of this review should allow PATH to work with each provider to address any issues identified in the review, to identify possible actions the CCSO may consider to address these issues, and to discuss if additional coaching and assistance would be recommended. It is not recommended HFS staff participate in each review. Rather, PATH should provide a summary of systemic issues across CCSOs regarding the care coordination process. This summary should provide the Department with information that may be considered for making policy and program changes and inform

PATH's ongoing training and coaching efforts. The Expert is recommending HFS work with PATH to develop and implement this review process within the first six months of CY 2023.

h) Establish child and family teams including the group of people chosen by the Class Member and family with the aid of the care coordinator to assist with the treatment planning process;

As indicated in the second annual Expert report, the Department has included child and family teams (CFT) in their model. Both tiers of care coordination, the High-Fidelity Wraparound Level and the Intensive Care Coordination Level, require the use of CFTs in the development of the Plan of Care. The Department has developed and implemented the training and policies (e.g., the CCSO provider manual) for CCSOs to conduct CFTs. In the second annual report, the Expert requested, and the Department provided the Expert with a draft provider manual. The Expert reviewed the provider manual and provided comments prior to finalization. As indicated in this paragraph (subsection g.), the Expert recommends HFS, in cooperation with PATH, review a sample of documentation from each CCSO that has gone live to identify whether CFTs are occurring consistent with the intent of Pathways. Information should be provided to each CCSO reviewed regarding the quality of the CFTs and any recommended strategies PATH has for improving the CCSO's CFT process.

i) Establish a Mobile Crisis Response ("MCR") model, including the development of crisis stabilizers, to provide behavioral health crisis response on a twenty-four hour a day, seven day a week basis; the MCR shall be established consistent with, or as the successor to, the Screening, Assessment and Support Services ("SASS") program;

As indicated in the previous Expert reports, the Department has implemented a Mobile Crisis Response Model as described in paragraph 9. The Department has also developed more recent guidance to MCR providers that better reflects the Department's vision and goals for MCR. Specifically, the Department has included MCR as part of the CCSO's responsibilities and has outlined MCR requirements in the CCSO provider manual. The Department has stated these requirements apply to Medicaid enrolled youth regardless of their enrollment in Pathways. In the second annual Expert report, the Expert recommended the Department take the appropriate actions recommended in paragraph 9 to improve the timeliness and quality of MCR teams. The Department expresses they are still committed to performing the reviews set forth in paragraph 9 and states they were unable to move forward with these reviews given other implementation priorities since the approval by CMS for Pathways. The Expert recommends these reviews be conducted and completed in the next reporting period.

j) Include a plan to coordinate among providers the delivery of services and supports to Class Members in order to improve the effectiveness of services and improve outcomes;

As indicated in the second annual Expert report, the Department revised the process for network development for many of the services included in Pathways. Specifically, the Department has taken the lead in identifying and recruiting the network for providers delivering Pathways services. For instance, in CY 2022, the Department selected CCSOs and performed a readiness review of providers prior to go-live. All CCSOs identified by the Department had a successful desk review. One CCSO completed their full readiness review by December 2022, including an onsite visit. Fourteen CCSOs completed their IMPACT enrollment and all selected CCSOs had a contract with four Medicaid MCOs by the end of CY 2022. Two contracts were pending with one MCO. As indicated earlier in this report, the Department has not been as successful with identifying, recruiting, and enrolling providers of other Pathways services including IHB, therapeutic mentors, respite, and family peer support.

HFS states they are developing a process for MCOs to begin network development activities for other services beyond CCSO care coordination included in Pathways. As indicated in the second annual Expert report, HFS included a requirement in the MCO contract to perform network development responsibilities for these services. The Expert agrees this shift is necessary. While the CCSO identification and enrollment process was performed well by HFS staff, it was limited to a small set number of providers. The number of providers offering other services in Pathways will be much larger and may fluctuate, requiring additional resources from the MCOs who have designated staff to perform network development functions. MCOs performing these functions do not relinquish HFS from these network development activities. HFS has the responsibility to oversee MCO's functions, including network development, and has content expertise regarding these services. There should be a thoughtful transition of these network development responsibilities from HFS to MCOs. The Expert recommends the Department develop a written network development transition strategy within the first six months of CY 2023. The Expert recommends HFS review the strategy with the Expert, the MCOs, the N.B. Subcommittee, and provider organizations to ensure all parties understand this transition and the expected roles of the MCOs regarding network development.

In addition to this transition strategy, and as recommended in the second annual Expert report, the Department should require the MCOs to produce an updated network development plan specific to services in Pathways. These plans should describe the process for the MCOs to collectively collaborate on their network development efforts. HFS should request, review, and provide substantive feedback on these plans prior to the third quarter of CY 2023. The Department should provide the Expert with an update regarding the submission and approval of these plans.

In addition, the Department's current MCO contract includes provisions for network adequacy and provider education. The contract was amended to require the MCOs to meet the provisions for access to new services included in Pathways. As recommended in the second annual Expert report, the Department should develop a process to specifically monitor these network development efforts, including a quarterly review of the network for CCSO and other providers of Pathways services. The Expert recommends the MCOs provide this quarterly information to the Department regarding the adequacy of Pathways' provider network in the second half of CY

2023. This information should be reviewed by HFS and discussed with MCOs to determine if any changes to the network development plan are necessary. The Expert understands that MCOs may not initially meet the network adequacy standards for other services included in Pathways in CY 2023. However, this does not preclude HFS or MCOs from identifying and addressing gaps in the network during the next reporting period.

k) Establish a process to communicate with Class Members, families, and stakeholders about the service delivery, service eligibility, and how to gain access to the Model, regardless of the point of entry or referral source; and

In CY 2021, the Department developed materials and processes for communication regarding Pathways. This included information that was discussed in paragraph 9. In the second annual Expert report, the Expert recommended, and the Department developed a draft Communication Plan. The Department solicited and received significant input from the N.B. Subcommittee for the content of this plan. The Expert has reviewed this plan and believes it is a good start. The Department should continue to update this plan to reflect accomplishments and any changes over the course of the Consent Decree.

l) Contain procedures to minimize unnecessary hospitalizations and out-of-home placements.

The Department has developed messaging that explicitly states in the Provider Manual for CCSOs and MCR that a goal of Pathways is to implement more effective home and community-based services to reduce inpatient behavioral health hospitalizations and out-of-home placements. Specifically, the Department has developed a CCSO provider manual that sets forth values and goals for Pathways that reinforces service and support strategies take place in the most inclusive, most responsive, most accessible, and least restrictive settings possible, and that safely promote child and family integration into home and community life. A specific goal articulated in the manual and reinforced by PATH training and goals for MCR and CCSOs is to reduce the unnecessary use of inpatient psychiatric hospitalization, residential treatment, and emergency rooms.

As indicated in paragraph 15, the Department will work with MCOs to develop policies and processes for the review and approval of admissions to PRTFs. The Expert recommends the Department develop the necessary medical necessity criteria and authorization processes for MCOs to use in order to ensure the criteria and processes for youth in acute crisis that need this level of care are applied consistently. This should include robust participation by CCSOs who can identify alternatives to PRTFs or assist with transition efforts from PRTFs to reduce lengths of stays in these facilities.

In the second annual Expert report, the Expert recommended the Department develop an initial data analytic strategy for determining how effective the work of the CCSOs, MCR Teams, other Pathways' service providers, and the MCOs are in diverting children and youth from ED, inpatient behavioral health providers, and PRTFs. The Department has begun but has not yet

completed this initial data strategy. HFS states they will work with a university partner to finalize the strategy. HFS should determine key indicators of Pathways' effectiveness that may include, among other measures:

- An aggregate baseline of emergency department (ED) visits and inpatient behavioral health admissions for youth enrolled in the Medicaid program and a separate baseline for youth enrolled in Pathways.
- The baseline should consider a "look back" period of two years to look at utilization of these services by these two cohorts, factoring in variations due to the COVID-19 Public Health Emergency.
- A process for providing data on a quarterly basis on both cohorts to determine if there are changes in utilization of ED and inpatient services that may be valuable indicators of how well MCR is performing for all Medicaid enrolled youth and youth enrolled in Pathways.

The Expert is recommending the baseline and the process for reviewing the impact of MCR and Pathways be developed within the third quarter of the next reporting period.

As indicated in the first and second annual Expert reports, other out-of-home placements are outside the purview of the Department or their contracted MCOs. Admissions to Qualified Residential Treatment Programs (QRTPs), foster care, and other residential facilities are overseen by other state agencies. For N.B. Class Members who are in out-of-home placements funded by Medicaid, the Department should, in close collaboration with DCFS, develop a longer-term strategy for preventing admissions to these placements. This approach should align with this paragraph of the N.B. Consent Decree and Family First Prevention Services Act (FFPSA)[2]. Obviously, this will only occur as Class Members in these out-of-home placements are enrolled in Pathways.

VI. Implementation

21. *Within nine (9) months after the Approval Date, Defendant shall provide Class Counsel and the Expert with a draft Implementation Plan. Class Counsel and the Expert will provide input regarding the draft Implementation Plan, which shall be finalized within twelve (12) months following the Approval Date. If, after negotiation, the Expert or Class Counsel disagrees with Defendant's proposed Implementation Plan, the Court shall resolve all disputes and approve a final Implementation Plan. The Implementation Plan, and all amendments or updates thereto, shall be filed with the Court and shall be incorporated into and become enforceable as part of this Consent Decree. Defendant shall make the Implementation Plan available to Class Members and the public by posting it to Defendant's website within five (5) business days after it is filed with the Court and within five business days after any changes to the Implementation Plan are filed with the Court. The Implementation Plan, must, at a minimum:*

[2] https://www.childrensdefense.org/wp-content/uploads/2020/07/FFPSA-Guide.pdf

a. Establish specific tasks, timetables, goals, programs, plans, strategies and protocols describing Defendant's approach to fulfilling all of the requirements of this Consent Decree;
b. Describe the hiring, training and supervision of the personnel necessary to implement this Consent Decree;
c. Describe the activities required to support the development and availability of services, including inter-agency agreements, and other actions necessary to implement this Consent Decree;
d. Identify, based on information known at the time the Implementation Plan is finalized and updated on a regular basis, any Medicaid-authorized services or supports anticipated or required in Service Plans developed pursuant to this Consent Decree that are not currently available in the appropriate quantity, quality or geographic location;
e. Describe the methods by which information will be disseminated, the process by which Class Members may request services, and the manner in which Defendant will maintain current records of Class Member service requests;
f. Describe the requirements of an interim plan of care for individuals receiving services in accordance with Paragraphs 24-25 that is consistent with Paragraph 17(g); and
g. Describe the methods by which Defendant intends to meet the obligations of this Consent Decree.

22. The Implementation Plan shall be reviewed by the Defendant at least annually and updated or amended as necessary. Class Counsel and the Expert shall have the opportunity to review and comment upon any proposed updates or amendments at least 60 days before the effective date of any updates or amendments. In the event Class Counsel or the Expert disagree with Defendant's proposed updates or amendments, Class Counsel shall state all objections in writing at least 30 days before the effective date of any updates or amendments. In the event that Defendant and Class Counsel do not agree on updates and amendments, the Court shall resolve any and all disputes before any updates or amendments become effective.

Paragraphs 21 and 22 are addressed together. As indicated in the second annual Expert report, the initial Implementation Plan was finalized in December 2019, just over 10 months after the 12-month anniversary of the signed Consent Decree. In CY 2022, the Department did provide an annual update to the Implementation Plan as required in Paragraph 22. This annual update was delayed while the Department received final approval from CMS to implement Pathways. HFS continued efforts to implement activities identified in the first plan, prior to CMS approval, since many of these activities were foundational to the start-up of the program. Similar to the initial Implementation Plan, the Department provided the Expert and the Class Counsel an opportunity to review the draft update to the Implementation Plan. Both the Expert and the Class Counsel provided input regarding the draft update to the Implementation Plan. The First Revised Implementation Plan was filed with the court and published in October 2022. A copy of this plan can be found at:

https://hfs.illinois.gov/content/dam/soi/en/web/hfs/sitecollectiondocuments/nbconsentdecreefirstrevisedimplementationplanoctober242022.pdf

The First Revised Implementation Plan sets forth updated milestones for each of the activities included in the Implementation Plan. The Department has agreed to provide the Expert and Class Counsel with quarterly reports regarding HFS's progress on the Implementation Plan.

Similar to staff additions described in the second annual Expert report, the Department has added more staff dedicated to the N.B. Consent Decree. They added four staff in CY 2022 to oversee the program. Additional staff will be added in CY 2023. These additional staff have demonstrated sufficient competencies in the knowledge of Class Members, Pathways' services, and Medicaid Managed Care. HFS staff, combined with PATH staff, provide a foundation for overseeing and growing Pathways.

VII. Named Plaintiffs and Class Members Who Received Preliminary Help or Interim Relief

24. After the Approval Date, any services granted to a Named Plaintiff or Class Member pursuant to any TRO or PI dissolved in accordance with Paragraph 23, or pursuant to a request made by Class Counsel without the entry of a court order during the pendency of this litigation prior to the Approval Date, shall continue until the services are either no longer necessary or the Class Member's needs are addressed in a manner consistent with the provisions of the Consent Decree and Implementation Plan. No later than 30 days after the Approval Date, Class Counsel shall provide a list identifying all individuals eligible for services pursuant to this Paragraph.

25. For each Named Plaintiff or Class Member who is receiving services pursuant to Paragraph 24, Defendant will assign a care coordinator, from an entity contracted by Defendant to provide such services, to manage the Class Member's case and provide care coordination services. The care coordinator will assist in developing an interim service plan in accordance with the Implementation Plan. Each Named Plaintiff or Class Member, and his or her family as necessary, shall cooperate with the care coordination service.

Paragraphs 24 and 25 are addressed together. According to the Class Counsel, there have been no identified service access issues for the original Class Members. It should be noted that all of the original named Class Members are now 21 and older and therefore are no longer a Class Member. For all Class Members continuing to receive Interim Relief services, the Department has worked with a university partner to assign a team of case managers to assist Interim Relief participants in locating appropriate services, to coordinate services, and to support the participants throughout the process.

VIII. Benchmarks

35. Defendant is expressly permitted to implement the Model described in Paragraph 17 in phases. Defendant shall provide certification to the Court, Class Counsel and the Expert upon substantially meeting the following Benchmarks, pursuant to the standards that shall be established through timely amendment to the Implementation Plan as appropriate for each Benchmark:

A. Benchmark No. 1: Within five (5) years after approval of the Implementation Plan, Defendant shall accurately certify to Class Counsel, the Expert and the Court that substantially all systems and processes that Defendant intends to utilize to implement the Model in accordance with the Implementation Plan are at least operational as outlined in the Implementation Plan.

B. Benchmark No. 2: Within two (2) years after the successful certification of Benchmark No.1, Defendant shall accurately certify to Class Counsel, the Expert and the Court that the Model is at a capacity to substantially serve the Class's needs for intensive home- and community-based services on a systemic level statewide. After successful certification of Benchmark No. 1, the Implementation Plan shall be amended (in accordance with the process set forth in Paragraph 22) to establish the standard for sufficient capacity that is necessary to substantially serve the Class's needs for intensive home- and community-based services on a systemic level statewide. Nothing in this Consent Decree shall be interpreted to require that the standard for Benchmark No. 2 guarantees that each Class Member will receive care or services precisely tailored to his or her particular needs.

The provisions of this paragraph will be addressed in future Expert reports. However, the Expert does recommend that the Department identify measures that will be used to determine compliance with Benchmark One. Some of the measures recommended in paragraph 9 should be considered in the development of these benchmarks.

Major Expert Recommendations for Next Reporting Period

This report provides various recommendations for the Department over the next reporting period. The CMS approval of Pathways has been issued and HFS has started various implementation activities. Throughout this report, the Expert identified activities that are recommended to be performed in CY 2023. Almost all of these activities are included in the First Revised Implementation Plan for Pathways. Other activities have been identified and discussed with the Department in the last quarter of CY 2022 after the First Revised Implementation Plan was approved. Many of these other activities were identified by HFS and the Expert when implementing the network of CCSOs and in discussion with the N.B. Subcommittee.

Activity	Timeframe
Revise approach to the N.B. Subcommittee agendas to include input on critical HFS implementation tasks including updates to the decision support criteria implementation process and the quality assurance plan	Ongoing
Finalize the process flow for N.B. Class Members in DCFS care and begin referrals of youth in DCFS care to Pathways	7/1/2023
Finalize an initial quality assurance plan that includes the structural, process, and outcome measures for Pathways	9/1/2023

Implement the Communication Plan developed by the N.B. Subcommittee for Pathways	7/1/2023
Finalize the activities of the workgroup to identify the behavioral health screening tool(s) for primary care practitioners and begin to train PCPs	12/31/2023
Implement reporting requirements and mechanisms for CCSOs' key functions identified by HFS	7/1/2023
Perform the proposed record reviews for ensuring the quality of MCR	10/1/2023
Collect and publicly report initial implementation data for Pathways	9/1/2023
Develop aggregate baseline data for ED visits and inpatient behavioral health admissions	10/1/2023
Monitor tiering decisions regarding the decision support model and report these decisions to the Expert on a monthly basis	Ongoing
Monitor the MCOs' efforts to successfully recruit organizations to provide other Pathway Program's services (beyond care coordination) and specifically Intensive Home-Based Services	Ongoing
Recruit, train, and complete enrollment with the remaining CCSOs	9/1/2023
Implement the PATH technical assistance process and have PATH provide feedback to HFS regarding systemic issues that will need to be addressed later in CY 2023	10/1/2023
Discuss the measures and reports for the Pathway Services with other state child serving agencies	10/1/2023
Undertake key PRTF implementation activities including finalizing the needs assessment (with university partner) and developing the PRTF model(s)	12/31/2023
Review the effectiveness of the MCO policy regarding participation in CFTs and propose changes as necessary	10/1/2023
Develop a strategy to ensure youth identified for enrollment in Pathways are referred for CCSO and other services by the end of CY 2024.	12/1/2023