State of New Mexico

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To:

Judith Meltzer
Center for the Study of Social Policy

Kevin Ryan
Public Catalyst

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Hyde & Associates Policy and Practices Consulting, LLC

Counsel for named Plaintiffs

Re: Kevin S. Progress Report

August 2, 2021

Dear Co-Neutrals Judith Meltzer, Kevin Ryan, Pamela Hyde, and Plaintiffs,

We are pleased to submit the State of New Mexico’s Kevin S. Settlement 2020 annual progress report describing our work during calendar year 2020 on the commitments due December 1, 2020. This is the State’s first Progress Report and reflects the collaborative efforts of CYFD and HSD as well as the State’s close collaboration with the Co-Neutrals appointed pursuant to the settlement agreement to evaluate and audit the State’s performance and progress toward achievements of the commitments and goals set out in the settlement agreement. Despite the tremendous challenges presented in 2020 due to the Covid-19 public health crisis, the State made significant progress on the commitments due in December and has developed plans and systems to lay the groundwork for the successful implementation of future targets.

CYFD and HSD are building a trauma responsive system of care for all children in state custody. In 2020, the State completed the development of a New Mexico child and adolescent needs and strengths (CANS) and crisis assessment (CAT) tools and in 2021 is moving toward full implementation to ensure trauma screenings are available and used for all children in state custody and is establishing a training system for all stakeholders. New criteria have been developed and published to help CYFD, stakeholders, and providers identify children and youth for whom intensive home-based services are medically necessary. The criteria for consideration of serious emotional disturbances (SED) were updated and out-of-home placement is no longer required for services.

CYFD and HSD are working to create a system for placing children in out-of-home care in stable, safe, appropriate, community-based placements in the least-restrictive environment. In 2020, the State’s
revised the placement procedures to restrict the use of out-of-state placements and prohibit the use of hotel or motel placements. In addition, CYFD has put in place new procedures and guidance prohibiting retaliation against any person raising concerns related to the unmet needs of children in state custody or their caregivers and has developed and published a new grievance procedure for resource families. The newly created Office of Children’s Rights created a New Mexico Foster Child and Youth Bill of Rights and is promoting a Youth Grievance Procedure to ensure the information is accessible to all youth in state custody.

CYFD and HSD are committed to serving Native American families, building relationships of trust with each of the New Mexico tribes and pueblos, and complying fully with the Indian Child Welfare Act (ICWA) in both its letter and intent. To ensure all Native children and families receive appropriate support and services, in 2020 CYFD created an Office of Tribal Affairs and engaged a full time director of tribal affairs to work collaboratively with the tribes, pueblos, and nations, including off-reservation Native American populations, to identify barriers to service delivery, develop and maximize services responsive to the needs of tribal members, and act as a conduit for the major issues and concerns expressed by the tribes, nations, and pueblos. The department has created new procedures to ensure Native children are in preferred ICWA placements and have access to culturally responsive treatments, interventions, and supports and is developing and implementing a comprehensive ICWA training and coaching plan to guide and support both its workforce as well as the larger community of stakeholders.

CYFD and HSD are building a statewide, community-based mental health system that all children and families will be able to access regardless of where they live. In 2020, HSD began work on the development of a new reimbursement methodology and guidance for providers on an array of community-based services and delivered a detailed interim progress report. In 2020, the State formed an interdepartmental High Fidelity Wraparound working group that met weekly and submitted a detailed progress report on the State’s efforts to build High-Fidelity Wraparound capacity. New regulations governing medication protocols were published to ensure that children in state custody are not overmedicated, while ensuring timely access to medically necessary medication and treatment.

To further and guide the State’s efforts, HSD and CYFD established a project management infrastructure to promote cross-department communication and collaboration and chartered teams to advance the completion of all commitments. The project teams, consisting of staff from both CYFD and HSD, hold weekly or biweekly meetings and are assigned to each commitment with designated leads, clear lines of approval for work products, and specified rosters. Standing meetings were established, including bi-monthly executive leadership meetings, bi-monthly team lead meetings, and weekly meetings with the Co-Neutrals project manager. The State continues to meet regularly with the Co-Neutrals to ensure mutual understanding of expectations and has submitted draft documents for their review and recommendations.

System reforms have been put in place or are under development to create a comprehensive system of data collection and analysis that will guide the state’s implementation and demonstrate progress over time. On December 1, 2020, the State entered into a contract with Falling Colors Corporation to create the data platform and validation plan to track progress toward each of the commitments, including identifying data sources and developing metrics, and reporting mechanisms. The State established a joint CYFD and HSD data validation steering committee and continues to hold weekly meeting to further develop and refine the data validation plan and evaluation methodologies.
Significantly, the State’s overall efforts are not focused solely on compliance with the settlement agreement but are intentionally centered on the creation of a sustainable and resilient trauma responsive system to serve New Mexico’s children and families into the future. The system change underway is promoting partnership and collaboration among previously siloed state systems and is rooted in HSD and CYFD’s strategic plans. The dedicated and talented staff at both HSD and CYFD have demonstrated their commitment to making New Mexico a great place to be a child. Collectively, more than 100 staff have contributed countless hours to this effort and are driving the system change through their incredible efforts.

The State extends its thanks to the plaintiff’s counsel for their cooperation over the last year and the numerous challenges presented by the Covid-19 public health crisis. The State also extends its gratitude to the Kevin S. Co-Neutrals for their commitment, collaboration, thoughtfulness, expertise, and insight.

Respectfully,

David R. Scrase, M.D., Cabinet Secretary, HSD  
Brian Blalock, Cabinet Secretary, CYFD

Cc:  
Angela Medrano, Deputy Cabinet Secretary, HSD  
James Cowan, General Counsel, CYFD  
Paul Ritzma, General Counsel, HSD  
Eli Fresquez, Assistant General Counsel, CYFD  
Reed Connell, Managing Partner, Policy and Advocacy Social Change Partners  
Tim Ross and Hannah Shaw, Action Research, Co-Neutral Data Consultants  
Rachel Paletta and Nico'Lee Biddle, CSSP, Co-Neutrals Staff
# Progress Report

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Introduction

In March 2020, the State of New Mexico’s Children, Youth and Families Department (CYFD) and Human Services Department (HSD) reached an innovative settlement agreement in the lawsuit, Kevin S., et al. v. Blalock1. The lawsuit was filed in 2018, during the previous administration, on behalf of 14 foster youth and two advocacy organizations: Disability Rights New Mexico and Native American Disability Law Center. It alleged trauma-impacted children and youth in New Mexico foster care lacked safe, appropriate, and stable placements and behavioral health services to meet their needs in the state system.

Under Governor Michelle Lujan Grisham, who has made improving the lives of children and youth a priority of her administration, Cabinet Secretaries Brian Blalock and David Scrase of CYFD and HSD, respectively, identified the needs for trauma-responsive, behavioral-health-focused reforms and for addressing the needs of Native American youth, specifically. The aims of the lawsuit and the strategic plans of the departments aligned and made the Kevin S. Settlement agreement possible.

The Settlement Agreement

The Agreement sets forth a plan and process for CYFD and HSD to improve the current system of care so that it is trauma-responsive and compliant with Section 504 of the Rehabilitation Act; the Americans with Disabilities Act; the Fourteenth Amendment to the U.S. Constitution; the Medicaid Act’s Early and Periodic Screening, Diagnostic and Treatment Services (EPSDT) and Reasonable Promptness provisions (42 U.S.C. § 1396 et seq.); and the Indian Child Welfare Act (25 U.S.C. § 1915(a) & (b)).

The State of New Mexico is committed to fulfilling the goals of the Kevin S. Settlement Agreement and, specifically, to do the following:

1. Develop and implement a system of care that utilizes collaborative decision-making to guide interagency efforts to coordinate delivery of care to children in state custody in a trauma-responsive manner.
2. Improve services and outcomes for families and youth.
3. Increase collaboration among child-serving agencies to reduce fragmentation of services and avoid duplication and waste.
4. Ensure sufficient human resources to meet the needs of children in state custody including trained caseworkers, foster parents, kin foster parents, and behavioral health providers.

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1 The case filed in the U.S. District Court for the District of New Mexico is now entitled Kevin S. et al. v. Blalock, et al., No. 1:18-cv-00896.
5. Set up practices and procedures to enable the State to comply with the Indian Child Welfare Act and provide culturally appropriate and relevant care to children in state custody and their families.
6. Develop and implement trauma-responsive training and coaching for caseworkers, foster parents, kin foster parents, out-of-home providers, and parents.
7. Establish a consistent screening, assessment, and referral procedure statewide that will facilitate access to medically necessary services for all children in state custody.
8. Improve the delivery of intensive home- and community-based services to eligible children in state custody.
9. Minimize congregate care and maximize the potential of children in state custody to grow into healthy and independent adults.
10. Identify and measure quality management tools to report on, provide, and improve the quality of care provided to children in state custody and to provide transparency and accountability.
11. Provide due process to the proposed class.

The settlement agreement details the State’s commitments in a set of four appendices (A, B, C, D). These commitments are entirely consistent with CYFD’s and HSD’s strategic plans and priorities.

**Appendix A - Trauma-Responsive System of Care**

CYFD and HSD will build and support a trauma-responsive system of care for all children in state custody. A trauma-responsive system of care is one that identifies, recognizes, and understands the effects of trauma and provides sufficient services and supports to ameliorate trauma, including secondary trauma. A trauma-responsive system of care must also support and serve other stakeholders, including families and people who work for or on behalf of children, youth, and families.

**Appendix B - Least Restrictive and Appropriate Placement**

CYFD and HSD will strengthen a system for placing children in out-of-home care in stable, safe, appropriate, community-based placements in the leastrestrictive environment.

**Appendix C - Indian Child Welfare Act**

CYFD and HSD will serve Native American families, strengthen relationships with each of the New Mexico pueblos and tribes, comply with the Indian Child Welfare Act.
Welfare Act (ICWA) in its letter and intent, and make every effort to ensure all Native American children and families receive appropriate support and services.

Appendix D – Behavioral Health Services

CYFD and HSD will build a statewide, community-based mental health system that all children and families will be able to access, regardless of where they live. The system will include a diverse and full spectrum of community-based services, will decrease reliance on congregate care, keep families together in their community to the maximum extent possible, and greatly reduce reliance on out-of-state residential placements.

Reporting Progress

Pursuant to the terms of the Kevin S. Settlement Agreement, by August 1, 2021, and every 12 months thereafter, the State will provide a written report of its progress. The period of assessment for each annual report shall be the previous calendar year.

Recognizing the impact of the COVID-19 pandemic on the State of New Mexico, and on implementation of the Kevin S. Final Settlement Agreement (FSA), on August 4, 2020, the parties agreed to extend by 180 days the deadline for compliance with a significant number of commitments originally scheduled to be completed in 2020. Accordingly, this report describes the State’s progress through December 31, 2020, on the limited set of commitments that were not included in the extension and were due December 1, 2020. A chart listing the commitments is attached hereto as Attachment F.

The FSA includes both Implementation Targets and Target Outcomes. Implementation Targets are process commitments that defendants agree to undertake as intermediary and necessary steps toward reaching the Target Outcomes. Target Outcomes are performance commitments that will be monitored continuously for a period of at least 24 months. In December 2020, the State began data collection and monitoring related to the following Target Outcomes due December 1, 2020.

1. Approval and notification of children placed in extraordinary circumstances.
2. Determination and review of children placed in non-ICWA preferred placements.

The data analysis of the State’s performance for these commitments from December 1, 2020, through December 31, 2020, is included in this report.

The remainder of the report is organized by appendix and associated implementation targets and target outcomes.
Appendix A

Implementation Target 1.1 and Target Outcome 1.1

CYFD, with input and collaboration from HSD, will establish Child and Adolescent Needs and Strengths (“CANS”) and functional trauma assessment criteria for access to intensive home-based services in consultation with clinical experts agreed upon by Defendants and Plaintiffs.

CYFD and HSD will identify, and Co-Neutrals will approve a CANS-CAT and comprehensive CANS screening tools.”

CYFD secured state general funding for the further development of the CAT and CANS in the 2019 legislative session. The State submitted its initial description of the child and adolescent needs and strengths (CANS) and crisis assessment tool (CAT) to the Co-Neutrals on October 10, 2020. Additional information was submitted on November 16, 2020, in response to feedback from the Co-Neutrals. The State met regularly with Co-Neutral Pam Hyde and received technical assistance from the Praed Foundation, resulting in the finalization of the New Mexico CANS and CAT tools and supporting materials. Final documents were submitted on December 1, 2020, and approved by the Co-Neutrals in February 2021.

The joint CYFD and HSD CAT/CANS team is continuing its work with the Praed Foundation to build out a New Mexico CAT/CANS curriculum and train all system stakeholders. Initial training of CYFD’s Protective Service staff began in 2020 and the Praed Foundation will begin rolling out training for trainers in August 2021. Every county will have training available to them, including presentations and supplemental videos. The State is working with the Praed Foundation to create a system for long-term coordination of training for all stakeholders to ensure every child in state custody will receive CAT/CANs screenings.

A data platform is under development to house the new CAT/CANS tools and will align users with certification and provide a mechanism for tracking and sharing CAT and CANS results with the courts and care coordinators. In addition, a “Decision Making Tool,” based on a series of algorithms, to be used with the CANs/CAT tools is being created to assist CYFD, stakeholders, and providers in identifying the needs of Children in State Custody (CISC), both in aggregate and individually. Algorithms associated with the need for follow-up services identified include

1. Functional Impairment: prevention; outpatient; Comprehensive Community Support Services (CCSS); High Fidelity Wraparound (HFW).
2. Evidence-based practices: dialectical behavioral therapy (DBT), eye movement desensitization and reprocessing (EMDR), functional family therapy (FFT),
trauma-focused cognitive behavioral therapy (TF-CBT), multisystemic therapy (MST); and child parent psychotherapy (CPP).

3. Level of supervision and reimbursement for resource families.

**Implementation Target 1.2**

**CYFD and HSD will revise SED criteria to clarify removal from home is not a requirement to access intensive home-based services.**

The criteria will aim to help CYFD, stakeholders, and providers identify children and youth for whom intensive home-based services are medically necessary and will include but not be limited to consideration of Serious Emotional Disturbance (“SED”) criteria, CANS, and functional trauma assessment screening.

In the last quarter of 2020, CYFD and HSD consulted with an array of providers and experts on the set of criteria for behavioral health providers to use when establishing whether a child is suffering from a serious emotional disorder (SED). On January 14, 2021, the Behavioral Health Collaborative voted to approve an updated set of criteria. The updated criteria remove the requirement for an ex parte order (found in the last paragraph of the 2015 SED criteria) because it was unduly restrictive with respect to access to needed services and inconsistent with the goal of preventing out-of-home placement. With the approval of this updated criteria the requirements of this implementation target were met.

The updated criteria will be incorporated as an appendix in HSD’s updated *Behavioral Health Billing and Policy* manual and is currently posted in two places:

https://files.constantcontact.com/0d5ec81b601/531685ce-903a-46db-af08-01ac1b4644b7.pdf

https://newmexico.networkofcare.org/content/client/1446/ProvideralertforSEDdefinitionwithattachment3.15.21.pdf
Appendix B

Target Outcome 1.1

No child under 18 will be placed in any hotel, motel, out-of-state provider, office of a contractor, or state agency office unless in extraordinary circumstances necessary to protect the safety and security of the child as documented in the child’s record and approved by the Secretary or the Protective Services Director of CYFD.

In 2020, the State’s placement procedure (PR 10) was revised to clarify and specify the circumstances and procedures required for the use of an out-of-state placement. The policy was submitted to the Co-Neutrals in draft form on October 10, 2020, and was revised in response to their feedback. The final procedure was submitted to the Co-Neutrals on December 1, 2020, and took effect on that date. The State has clarified the current receiving center, while physically located on the same site as some CYFD offices, does not constitute an office, and thus is not subject to the terms of the full settlement agreement under this commitment. The State is also in the process of licensing the receiving center as a multi-service group home in accordance with future commitments due on December 1, 2021.

No child was placed in any hotel or motel during 2019. In 2020 there were two instances of hotel stays that occurred under circumstances driven by the pandemic. In both cases, the youth were days shy of their 18th birthdays. No child has been placed in a hotel or motel since, and CYFD leadership has reiterated to all staff the complete prohibition on hotel or motel placements of youth under 18.

In December 2020, there were two extraordinary placement cases. Both were out-of-state congregate care placements. One was an 11-year-old who was placed at Texas Neurorehabilitation on December 22, 2020. Notification to the child’s guardian ad litem and the court was made on December 15, 2020; these notifications were provided by the agency’s children’s court attorney. The memorandum for decision was approved and signed by the acting division director on December 3, 2020. The child was determined to have extraordinary behavioral health needs that were not being met by the in-state facility where she was placed prior to going out of state.

The second case involved a child who had an acute care stay at University Behavioral Health in El Paso, Texas, for medication management and stabilization. The inpatient stay occurred after the child was placed with her aunt and she returned to this relative placement after discharge. The case was staffed within a few days of admission, and she was discharged a few days later. Her entire stay was 10 days. CYFD offices in the southeast and southwest parts of the state frequently use Texas services personally and professionally. The staff did not realize the out-of-state placement documentation was
required because of their frequent use of these facilities. A reminder will be provided to all offices regarding the new procedure and requirement for approval of extraordinary circumstances for all out-of-state placements.

The only other child identified in the data has been excluded from the denominator as he was born in an out-of-state hospital and taken into custody prior to a family-based placement. He remained in the hospital for several days due to being born drug-exposed with high medical needs.

A full report on the 2020 quantitative monitoring outcomes is attached as Attachment C.

**Implementation Target 2.1**

*CYFD will publish guidance prohibiting retaliation against any person, including foster parents, for raising concerns related to the unmet needs of Children in State Custody or their caregivers.*

The State submitted draft guidance prohibiting retaliation on November 19, 2020, and made revisions in response to the Co-Neutrals’ feedback. Final guidance prohibiting retaliation was submitted to the Co-Neutrals on December 1, 2020. In accordance with the submission, the guidance was incorporated into the CYFD employee handbook and is included in CYFD procedure (PR 11). The State notified its union of the department’s intent to implement and publish the procedure on March 15, 2021. The union requested collective bargaining, which took place on March 3, 2021, and resulted in very minor edits. The final policy went into effect and was distributed to all staff by email on March 15, 2021.

See Attachment A, the informational sheet provided to the New Mexico Legislature during the 2021 legislative session.

**Implementation Target 3.2**

*CYFD will promote its internal Grievance Procedure for youth.*

The State submitted documentation of its internal grievance procedure for youth on October 2, 2020, and submitted revised documents on November 19, 2020, in response to the Co-Neutrals’ feedback. The Co-Neutrals provided additional feedback in writing on November 30, 2020. The State submitted final documents on December 1, 2020, incorporating all the feedback. Internal procedures (PR 14) were completed in April and May 2021 and the New Mexico Administrative Code (NMAC) was amended to include a reference to the Office of Children’s Rights “Youth Grievance Procedure.”
Since December 2020, the state commenced promotion of the youth grievance procedure, including promoting the policy in monthly meetings with youth and in quarterly meetings with staff, developing a youth bill of rights, and creating flyers, posters, magnets, and other promotional materials to be distributed to the field offices, provider settings, resource family homes, congregate settings, shelters, and residential treatment centers. To ensure the information is accessible to all youth, the promotional materials have been translated into both Spanish and Navajo Diné. The New Mexico Foster Child and Youth Bill of Rights is posted on the CYFD and PullTogether.org websites and contact information to report a grievance is posted on the bottom of every page on both sites. The New Mexico Foster Child and Youth Bill of Rights, in all three languages, is attached here as Attachment B.

CYFD is working to ensure all youth know and understand their rights and the Youth Bill of Rights and Grievance Process will be

- Provided to all youth entering protective service custody and explained in a manner the child/youth understands.
- Reviewed by the primary worker assigned to the child/youth’s case upon every placement change that occurs during custody and, at minimum, every three months while in state custody.
- Provided to all youth at the case planning meeting that occurs when they turn 14 years old.
- Reviewed by fostering connections specialists at every Fostering Connections Plan meeting beginning at age 17.
- Posted at eye level by administrative staff in the lobbies, conference rooms, and visitation rooms in all CYFD offices.
- Posted in accessible locations within placement settings (e.g., refrigerators, bedrooms, etc.).
- Reviewed monthly throughout 2021 during “drop-in” sessions (training) to educate young people about their rights and how to submit a grievance if they feel their rights have been violated.
- Advertised on the LUVYA (Leaders Uniting Voices Youth Advocates of New Mexico) Facebook page and other social media platforms.

See Attachment A, the informational sheet provided to the New Mexico Legislature during the 2021 legislative session.

**Implementation Target 3.3**

*CYFD will develop a Grievance Procedure for Resource Families.*

The State submitted documentation of a grievance procedure for resource families on October 2, 2020, and submitted revised documents on November 19, 2020, in response to the Co-Neutrals’ feedback. The Co-Neutrals provided additional feedback in writing on
November 30, 2020. The State submitted final documents to the Co-Neutrals on December 1, 2020, incorporating all the feedback.

The Resource Family Grievance procedure is included in PR 11 and Program Instruction Guideline 03-2021-#6. Implementation of the resource parent grievance policy required an amendment to Section 8-26-2 of the New Mexico Administrative Code (NMAC). The proposed changes were published in Issue 5, Volume XXXIII, of the New Mexico Register and were published in the April 5, 2021 edition of the Albuquerque Journal. A public hearing was held on April 9, 2021, and the policy was posted for public comment. The final policy was adopted and submitted to the register on May 6, 2021, and published on May 25, 2021.

The procedure and grievance form are posted on the CYFD website here: https://cyfd.org/docs/PR_11_Resource_Family_Bill_of_Rights_and_Grievance_FINAL.pdf.

See Attachment A, the informational sheet provided to the New Mexico Legislature during the 2021 legislative session.
Appendix C

Implementation Target 4.1

CYFD will maintain a full-time employee responsible for developing/ maximizing culturally responsive services, and for coordinating/ overseeing provision of culturally responsive services by local staff.

The position of CYFD Native American liaison was filled in October 2019. In 2020, the Native American Liaison Program expanded into a formal Tribal Affairs Unit and the position of Native American liaison was elevated to director of Tribal Affairs. The State notified the Co-Neutrals and the community of the appointment of Donalyn Sarracino as director of Tribal Affairs.

The duties of the director of Tribal Affairs include

- Work collaboratively with the New Mexico tribes, pueblos, and nations, including off-reservation Native American populations, to identify barriers to service delivery, develop and maximize services responsive to the needs of tribal members, and act as a conduit for the major issues and concerns expressed by the tribes, nations, and pueblos.
- Represent the Office of the Secretary at state, regional, and national meetings on issues that impact state-tribal relations.
- Serve as the department contact for policy issues concerning the Indian Child Welfare Act (ICWA) of 1978.
- Assist the department and tribes, nations, and pueblos with ICWA and Juvenile Justice Services intergovernmental agreements and other CYFD-tribal Title XX and Title IV-E intergovernmental agreements.
- Develop partnerships between the State of New Mexico, tribes, nations, and pueblos, off-reservation entities, and federal agencies that mutually affect positive policy and practice outcomes for all Indian children and families.
- Work to ensure CYFD compliance with the State Tribal Collaboration Act.
- Work to ensure CYFD compliance with Native American provisions in the New Mexico Children’s Code.
- Work to ensure CYFD compliance with ICWA and to the department’s policy and intergovernmental agreements changes because of the December 16, 2016, U.S. Bureau of Indian Affairs (BIA) Indian Child Welfare Act Regulations.
- Advise CYFD on pending legislation affecting Native American children and families and provide guidance on program implementation of any enacted legislation.

Additionally, CYFD hired a Protective Services tribal coordinator in March 2021 and will be onboarding a Behavioral Health tribal coordinator in August 2021. The Tribal Affairs
unit has dedicated support staff across all CYFD’s divisions and Cynthia Aragon, assistant general counsel with CYFD’s Office of General Counsel, works in partnership with the unit to augment and support its work.

Target Outcomes 4.1, 4.2, and 4.3

CYFD is committed to having Native American Children in ICWA-preferred placements. When a Native American Child is in a non-ICWA-preferred placement, the placement will be reviewed every 30 days.

CYFD will establish and comply with protocols, as approved by the Co-Neutrals, governing the 30-day review process for any Native American child in a non-ICWA preferred placement.

CYFD will create procedures that enhance accountability for ICWA placement preferences.

CYFD has revitalized prioritization of culturally appropriate placements. In 2020, CYFD’s Office of Tribal Affairs began conducting statewide ICWA placement compliance reviews and developed procedures to ensure preferred placement and 30-day reviews in all cases where a Native American child is not in an ICWA preferred placement. In state fiscal year 2020, CYFD saw a 13 percent increase in placement of Native American children in custody with relatives.

On October 1, 2020, the State submitted to the Co-Neutrals a draft of both the ICWA 30-day review and the interdependent PR 10 placement procedure. The Co-Neutrals provided feedback in writing on November 6, 2020, and the State submitted a revised version of both documents on November 16, 2020. The State and Co-Neutrals further discussed the memo and procedure during their meeting on November 20, 2020, and the Co-Neutrals provided additional feedback in writing on November 24, 2020. The State made additional revisions in response to that feedback and submitted the finalized memo and procedure on December 1, 2020.

The ICWA 30-day review was approved by the Co-Neutrals on January 21, 2021. The revised PR 10 placement procedure and interdependent ICWA 30-day review process address the requirements of these three targets. On March 24, 2021, CYFD issued a program instruction guideline (PIG) based on the December 1, 2020, memo. The PIG mandated immediate changes to the procedures and practices and will be incorporated into a new or revised procedure after field testing for sufficiency.

Pursuant to the terms of the full settlement agreement, the State began tracking the review of non-ICWA-preferred placements as of December 1, 2020. In December 2020, 29 children in state custody were found to be ICWA-eligible by the courts (n=19) or thought to be ICWA-eligible because they were Native American, had tribal affiliation, or both
(n=10) These children were involved in a total of 31 placements in December 2020. Of the three cases involving Native American children with a court ICWA determination where a child’s placement was not reviewed by the court, all three placements were determined to ICWA-preferred placements (or not ICWA-preferred, which is how the court conceptualizes this determination.)

Of all 31 placements of children who were ICWA-eligible or had documented Native American race or tribal affiliation, 15 were non-preferred placements according to federal guidelines as interpreted by CYFD. Because the court-determined ICWA-eligible children were already in preferred placements, a 30-day placement review was not required in any of the cases. Among all other non-preferred placements of children included in the sample without a court-determination of ICWA eligibility (i.e., reason-to-know status), there was one OOPP (out-of-preferred-placement) meeting due (see ChildID 2332567) that did not occur on time.

A full report on the 2020 quantitative monitoring outcomes is attached as Attachment C.

**Target Outcomes 5.1 and 5.2**

*CYFD will develop an ICWA training plan.*

CYFD and HSD are committed to serving Native American families, building relationships of trust with each of the New Mexico tribes and pueblos, and complying fully with the Indian Child Welfare Act (ICWA) in both its letter and intent. To ensure Native American children are in preferred ICWA placements and have access to culturally responsive treatments, interventions, and supports, CYFD is developing and implementing a comprehensive ICWA training and coaching plan to guide and support both its workforce and the larger community of stakeholders. The ICWA training courses under development include specific information on ICWA requirements and best practices, as well as the history of ICWA and historic relations between Native American people and both the state and national governments. The courses include skills development in working with Native American families and communities and include information on historical trauma, cultural humility, and culturally responsive engagement and intervention techniques. The trainings also include information on New Mexico tribes and pueblos, sovereignty, and jurisdictional issues.

CYFD’s Workforce Development Bureau (WDB) is responsible for the creation, delivery, and hosting of the ICWA training courses and ongoing coaching. The curriculum is being developed collaboratively with CYFD’s Academy for Training and Professional Development Team, CYFD tribal liaison, and a ICWA Training Advisory Group, made up of members of the NM Tribal ICWA Consortium.
All Protective Services Division employees will be mandated to complete the ICWA novice worker certification. The certificate includes six courses that build the knowledge of the employees of ICWA, its formation and its needs; builds knowledge of ICWA specific requirements; builds skills in working with Native American communities and families in culturally responsive ways; and builds skills in community engagement strategies with Native American communities. All county office managers, regional managers and field deputy directors will be mandated to complete and advanced ICWA worker within one year of taking the position.

In addition, the ICWA training plan includes mandatory training for children’s court attorneys (CCA). CCAs are required to complete the novice ICWA worker certificate and attend more in-depth trainings provided by special masters to ensure attorney’s managing ICWA cases are prepared and equipped to represent Native American children and families. Special trainings will be developed for Resource Parents, and Resource Parents with Native American children in their care will be required to add ICWA training into their individualized training plan. CYFD is also working to develop mutual rewarding training opportunities for judges, contractors, State departments, and other partners and is working the ICWA training advisory group to develop appropriate training for external partners.

An initial outline of the State’s plan was provided to the Co-Neutrals in October 2002. The plan was further developed and revised in line with the Co-Neutrals feedback direction and a draft plan on December 2, 2021. In their written feedback on December 15, 2020, the Co-Neutrals noted the plan did not yet reflect the input of the required advisory group, the convening of which was delayed by the pandemic. Over the next several weeks, the state convened the advisory group and provided regular updates to the Co-Neutrals regarding its composition and proceedings. A revised plan that directly incorporates the input and feedback of the advisory group was submitted to the Co-Neutrals on May 3, 2021. The Co-Neutrals returned a list of questions and requests on May 17, 2021, and the State submitted a revised version on June 15, 2021. The State received additional information from the Co-Neutrals on June 28, 2021 and is working to incorporate the feedback from the tribal advisory group and engage the services of the National Indian Child Welfare Association to serve as a consultant in the curriculum development.

Implementation Target 8.1

CYFD and HSD will create and maintain a dedicated ICWA unit and work with AOC to implement lessons learned from the ICWA unit and court throughout the state.

In June 2020, CYFD created the Office of Tribal Affairs, expanded the role of tribal liaison to director of Tribal Affairs, and designated tribal coordinators within the Behavioral Health Services, Juvenile Justice Services, and Protective Services divisions. The Tribal
Affairs Office is housed within the Office of the Secretary and is charged with addressing needs of tribal families, identifying culturally relevant services, developing intergovernmental agreements, providing technical assistance to the tribes, and providing consultation and training for CYFD staff in their interactions with tribal children, youth, and families, the use of cultural compacts, and cultural considerations. Additionally, Tribal Affairs is tasked with implementing CYFD’s strategic plan relative to Native American/Alaskan Native issues and ensuring completion of specific assignments made by the CYFD Office of the Secretary in accordance with the State-Tribal Collaboration Act (STCA) and CYFD Collaboration, Communication and Consultation Policy. The Tribal Affairs Office actively participates in department policy and legislative matters that impact New Mexico tribal governments and off-reservation Native American/Alaskan Native people.

CYFD, the Administrative Office of the Courts, the 2nd Judicial District Court, the New Mexico Tribal Indian Child Welfare Consortium, the Navajo Nation, and Casey Family Program’s Indian Child Welfare Program worked collaboratively over the last two years to develop a dedicated Indian Child Welfare Special Court in Bernalillo County. This project, many years in the making, resulted in the creation of a specialized ICWA Court in Bernalillo County in 2020. The Children’s Court in Bernalillo County handles the highest volume of abuse and neglect cases statewide and, due to the high population of urban Native American children and families in Albuquerque, this court also handles the most ICWA cases.

The Bernalillo County ICWA Court began accepting cases in January 2020 and is overseen by Chief Children’s Court Judge Marie Ward. Hearings are facilitated by Special Master Catherine Begaye. The court has several respondent attorneys and guardian ad litems on contract to provide expert services to families involved with the court. In its first year of operation, the ICWA court has turned in impressive results, with a steady increase in both reunification and relative placements. The ICWA unit is now working with most Native American children in Bernalillo County and the children’s court attorney position has been upgraded to a master attorney.

Bernalillo County has now joined six other sites from around the nation in creating a specialized court and court process for Native American families. There are currently ICWA courts in Billings, Montana; Denver, Colorado; Adams County, Colorado; Los Angeles, California; Yellowstone, Wyoming; and Duluth, Minnesota. CYFD is in communication and receiving technical assistance from several of these courts. One goal of the ICWA court is to replicate its success in other regions of the state. To this end, CYFD has committed to taking the “lessons learned” from the court, so that ICWA programs can be established in other jurisdictions. A priority will be collaborating with the Administrative Office of the Courts to develop trainings and learning opportunities for judges and contract attorneys throughout the state. These will incorporate
comprehensive information on ICWA and lessons learned from the Bernalillo County implementation.

In concert with the establishment of the ICWA Court, CYFD launched an ICWA unit to serve as the primary case manager to all ICWA cases in Bernalillo County. The ICWA unit is housed in the Bernalillo County Metro Court region field office and is staffed with an ICWA Unit supervisor, a children’s court attorney, and four ICWA specialists who work to ensure protective services cases have tribal involvement, children are in preferred placement, and culturally appropriate services are identified and implemented throughout the duration of the case.
Appendix D

Implementation Target 3.1a
(December 1, 2020)

HSD will produce to the Co-Neutrals and Plaintiffs’ counsel a detailed interim progress report on the State’s efforts to develop and publish reimbursement methodology, billing rate information, and guidance for providers.

On November 22, 2020, the State submitted a detailed interim progress report on the State’s efforts to develop and publish reimbursement methodology, billing rate information, and guidance for providers. The State’s efforts to ensure appropriate guidance to providers of an array of services as a function of the full settlement agreement was provided in the report and is summarized herein.

The reimbursement for High Fidelity Wraparound (HFW) will be a per-member, per-month (PMPM) rate, offered to all providers statewide and calculated according to extant rates for providers of HFW developed by the State’s Medicaid actuary, Mercer. Most trauma treatment, including for complex trauma, is currently fully reimbursable through Medicaid, Medicare, and private insurance. In the event there are children who do not fall into one of those categories, HSD and the Behavioral Health Collaborative have already instituted mechanisms for providers to enroll with the administrative services organization (ASO), Falling Colors, to be paid from State general funds as the payer of last resort. This would be the case, for example, with trauma-focused cognitive behavioral therapy (TF-CBT), eye movement desensitization and reprocessing (EMDR), dialectical behavior therapy (DBT); and most other evidence-based practices based on a traditional approach to psychotherapy.

The Centers for Medicare and Medicaid Services (CMS) may authorize states to conduct demonstration projects that are likely to assist in promoting the objectives of the Medicaid program, allowing for the federal financial participation for state expenditures that would not normally qualify. Currently, HSD operates the New Mexico Medicaid managed care program through an 1115 waiver and will be requesting federal authority to include High Fidelity Wraparound in the spring 2021 amendment submission to CMS, with implementation beginning the summer 2021. This waiver request should allow HSD to provide payment for services not otherwise billable as an all-inclusive rate, including the cost of intensive care coordination in addition to all other necessary behavioral health services and supports. HSD will also request the inclusion of administrative costs for provider training, monitoring fidelity of the model, and evaluation of High Fidelity Wraparound.
The rates for HFW will be determined through an actuarial process and billing rates for most trauma treatment, including for complex trauma, would not need to be revisited for full implementation.

The behavioral health tool kit will be updated, and guidance will be provided on the following: screenings and assessments, specifically the New Mexico Child And Adolescent Needs and Strengths (NM CANS 2020) and the Crisis Assessment Tool (NM CAT 2020) once approved by the Kevin S. Co-Neutrals; High Fidelity Wraparound; treatment for children with complex trauma; intensive case management; mobile crisis response services; and intensive home-based services. Guidance will include documents and training developed by HSD’s Behavioral Health Services Division (BHSD) and will be supplemented by recorded guidance. The training will be provided by BHSD program managers in collaboration with CYFD and the New Mexico State University Center for Innovation.

The State’s December 1, 2020, interim progress report on the State’s efforts to develop and publish reimbursement methodology, billing rate information, and guidance for providers is attached hereto as Attachment D.

**Target Outcome 3.1a**

(December 1, 2020)

_HSD will produce to the Co-Neutrals and Plaintiffs’ counsel a detailed progress report on the State’s efforts to build High-Fidelity Wraparound capacity._

In 2020, the State formed an interdepartmental High Fidelity Wraparound working group that met weekly to develop efforts to build High Fidelity Wraparound capacity. The State submitted the initial draft report on these efforts on October 1, 2020. The Co-Neutrals provided feedback in writing on November 6, 2020. The State made significant revisions to the plan and submitted a revised version on November 16, 2020. Co-Neutral Pam Hyde met repeatedly with HSD staff to provide additional feedback and recommendations. The State addressed this feedback and submitted the final report on December 1, 2020.

The State’s December 1, 2020, progress report is attached hereto as Attachment E.

**Implementation Target 4.1a and 4.1**

(December 1, 2020)

_CYFD, with input from HSD and Dr. George Davis, will publish in the public record for comment proposed regulations governing medication protocols to ensure that Children in_
State Custody are not overmedicated, while ensuring timely access to medically necessary medication and treatment.

Co-Neutrals must approve the final form of regulations governing medication protocols as adopted by CYFD.

Working with Dr. George Davis, the State developed a revision of PR 17, the policy regarding medical and behavioral health that includes regulations governing medication protocols. The State submitted the initial draft of the revised PR 17 on October 1, 2020. The Co-Neutrals provided feedback in writing on November 6, 2020. The State made significant revisions to the plan and submitted a revised version on November 16, 2020. The Co-Neutrals provided additional feedback in writing on November 24, 2020. The State made further revisions in response and submitted the final policy on December 1, 2020. All staff were trained on the new policies in December 2020 and a refresher was provided in June 2021. The policy was put to vote at the January Behavioral Health Collaborative meeting, and the voting members agreed to implement the new policy. There was time given for public comment at the meeting. The policy is published on HSD’s Network of Care website at https://www.hsd.state.nm.us/wp-content/uploads/2020/12/BH-APPENDICES-COMPLETE-003-1.pdf. The policies are in the New Mexico Administrative Code and were published on May 24, 2021. The policy will be added to the Comprehensive Community Support Service (CCSS) training and the High Fidelity Wraparound training. The State presented the new policy at the provider association meeting and will continue to present to relevant stakeholders including the Children’s Court Improvement Commission. The proposed changes were published in the NM Register, Volume XXXII, Issue 9, on May 24, 2021.
A: Grievance Processes, Retaliation, and Licensing

In the past 3 months, CYFD has developed comprehensive grievance processes, one for resource families and another for children, youth, and young adults participating in Fostering Connections post-18 services, as well as a procedure to address claims of retaliation.

Resource Families (PR 8.26.2.11)
- Bill of Rights sets forth 24 rights including the right to: detailed and timely information about a child in the resource family’s care; input concerning plans of service for the child; fair, timely and impartial investigation concerning referrals filed against them and access to fair and impartial appeals process free from retaliation; report misconduct by CYFD employees, service providers or contractors; expect and rely upon fact that CYFD’s decisions regarding them and the children placed in their care will be in compliance with state and federal law; and, full and timely financial reimbursement.
- Two-tiered grievance process – CYFD Constituent Affairs and then Office of Inspector General if not resolved.

Children, Youth and Young Adults
- Grievance filed by or on behalf of a child or youth by, and against, a wide range of individuals who have contact with the child or youth, alleging a violation of the Foster Youth Bill of Rights, and handled by the Office of Children’s Rights (OCR).
- Informal resolution process for children and youth to voice their concerns and to create strong communication between themselves, Protective Services Division staff and other supports.
- If the Office of Children’s Rights determines cannot be decided by informal resolution, the grievance will be handled by 3-person panels.
- Panel does not know the identity of the child or youth unless allowed in writing.

Retaliation (PR 8.8.2.24)
- Prohibits retaliation by any CYFD employee against anyone who has expressed a concern or made an complaint about harassment, sexual harassment or discrimination.
- Complaint to CYFD Office of Constituent Affairs.
- If meets criteria for retaliatory, complaint sent to CYFD’s HR Department for investigation by Employee Relations Bureau.

Denial, Revocation, Suspension, or Non-Renewal of a Foster Care Provider License (NMAC 8.26.24.20 and 8.8.4 NMAC)
- CYFD must provide written notification of reason for revocation, suspension or non-renewal of a foster care license and provide the opportunity to request an appeal before an impartial hearing officer appointed by or approved by the CYFD Secretary.
- Admin hearings in accordance with 8.8.4 NMAC.
- Hearing officer makes recommended decision to secretary, who makes a final decision either agreeing or disagreeing with the hearing officer’s recommended decision.
- Final decisions by the Secretary may be appealed to the appropriate district court pursuant to Rules 1-074 or 1-075.
B: New Mexico Foster Child and Youth Bill of Rights

NEW MEXICO FOSTER CHILD AND YOUTH BILL OF RIGHTS

Every child in the foster care system is endowed with the rights inherently belonging to all children. In addition, because of the unique circumstances facing foster children, special safeguards, resources and care are also necessary. Below you will find a list of rights that are to be given to every child and youth in custody of the Children, Youth and Families Department (CYFD). These rights must be explained by the caseworker to every child and youth in a manner in which they can understand. These rights are to be reviewed, in detail, upon entering custody and at a minimum of every six months. Additionally, these rights are to be clearly posted in all CYFD and service provider offices. They are to be provided to all staff working with foster children and youth, and to all foster parents.

1. To be informed of your rights in foster care by your caseworker and to receive a list of those rights in written form.
2. To have your privacy protected and your right to confidentiality adhered to, as outlined in the New Mexico Children’s Code.
3. To be explained why you came into foster care and why you are still in foster care by a representative of CYFD.
4. To be free from physical, sexual, emotional or other abuse, including corporal punishment.
5. To stay safe and avoid exploitation.
6. To advocate for yourself and to speak to persons involved with your case without negative repercussions.
7. To make a report to Statewide Central Intake (1-800-797-3260) if you feel you are being abused and/or neglected.
8. To be represented by a guardian ad litem or youth attorney in all judicial matters (hearings and mandatory meetings) conducted in your abuse/neglect case so that your interests are safeguarded; to attend and participate in all court hearings as coordinated through your attorney.
9. To be informed of how to contact your caseworker and other professionals involved in your case.
10. To contact your attorney, caseworker and CASA when you want.
11. To have a minimum of at least monthly visitation with your caseworker, which includes private time between yourself and the caseworker.
12. To receive medical, dental, vision and behavioral health services.
13. To refuse medical and behavioral health services and medications, unless court ordered, after age 14.
14. To live in a safe, healthy and comfortable home where you are treated with respect.
15. To have foster parents who are screened, trained and licensed, and who receive adequate support and supervision from CYFD and/or private agencies.
16. To receive adequate and healthy food, adequate clothing and appropriate personal hygiene products.
17. To have all your personal belongings secure and transported with you.
18. To have a permanent plan for placement, to participate in developing this plan, and to have choice in placement or the right to request a placement change.
19. To be placed in a home with your siblings who are in custody unless it is contrary to your safety and/or wellbeing.
20. To maintain regular contact with your siblings, whether or not they are in custody, unless it is contrary to your safety and/or wellbeing.
21. To have regular and ongoing contact (by phone, through letters and in person) as soon as possible after entering custody with biological parents, relatives and other important people in your life, unless it is contrary to your safety and/or wellbeing and prohibited by a court order or you choose not to.
22. To be informed by a CYFD representative when contact with important people in your life is being monitored or prohibited, and the reasons it is being monitored or prohibited.
23. To remain in the same school you were enrolled in before entering into custody and to remain in the same school throughout your stay in custody, to be provided with transportation arrangements to ensure continued enrollment in the same school.
24. To attend and participate in school meetings, including parent/teacher conferences, Individual Education Planning (IEP) meetings and Next Step Planning meetings.
25. To participate in extra-curricular, cultural, spiritual and personal enrichment activities.
26. To be involved in the development of your treatment plan, life skills plan, transition plan and visitation plan; to receive factual information about the treatment decisions made by the agency that affect your life.
27. To have a plan for your future, including a life skills plan and transition plan; to be offered services to help you prepare to become a successful adult.
28. To an annual credit check from age 14 to 18.
29. To initiate a review of any prudent parenting decision made by your foster parents, at 14 and older.

If you feel your rights have been violated, please email CYFD.YouthGrievance@state.nm.us or call or text 505-228-6797.
DECLARACIÓN DE DERECHOS DE NIÑOS Y JÓVENES EN CUIDADO TEMPORAL EN NUEVO MÉXICO

Cada niño que está en el sistema de cuidado temporal tiene los mismos derechos que todos los niños tienen inherentemente. Además, debido a las circunstancias particulares que los niños en cuidado temporal enfrentan, es necesario incluir recursos, atenciones y protecciones especiales. A continuación, verá una lista de derechos que deben cumplirse para cada niño y joven que está en custodia del Departamento de Niños, Jóvenes y Familias. El trabajador social debe explicar estos derechos a cada niño y joven de una manera que puedan entender. Estos derechos se pueden repasar detalladamente después de entrar en custodia y mínimo cada seis meses. Además, estos derechos se deben publicar con claridad en todas las oficinas de CYFD y de los proveedores de servicios. Se debe proporcionar a todo el personal que trabaje con niños y jóvenes en custodia y padres de crianza temporal.

1. De ser informado de sus derechos en cuidado de crianza por su trabajador social y recibir una lista de los derechos en forma escrita.
2. De que se proteja su privacidad y se respete su derecho a la confidencialidad, como se describe en el Código Infantil de Nuevo México.
3. De que un representante de CYFD le explique por qué entró en un hogar de crianza y por qué todavía está en cuidado temporal.
4. De no sufrir abuso físico, sexual, emocional o de otro tipo, incluyendo el castigo corporal.
5. De estar seguro y evitar la explotación.
6. De abogar por sí mismo y hablar con personas involucradas en su caso sin repercusiones negativas.
7. De hacer un reporte a la línea telefónica estatal (1-800-797-3260) si siente que está siendo abusado y/o descuidado.
8. De ser representado por un tutor ad litem o abogado de menores en todos los asuntos judiciales (audiencias y reuniones obligatorias) que se lleven a cabo en el caso de abuso/negligencia y su interés sea compartido y resguardado; de asistir y participar en todas las audiencias del tribunal según lo coordine su abogado.
9. De ser informado de cómo comunicarse con su trabajador social y otros profesionales de su caso.
10. De comunicarse con su abogado, trabajador social y CASA cuando usted quiera.
11. De tener como mínimo una visita mensual de su trabajador social, que incluye una conversación privada con usted y su trabajador social.
12. De recibir servicios médicos, dentales, de la vista y la salud conductual.
13. De rechazar medicamentos y servicios médicos y de salud conductual a menos que la corte lo ordene, después de los 14 años.
14. De vivir en un lugar seguro, saludable y cómodo, donde lo traten con respeto.
15. De tener padres de crianza que son evaluados, capacitados y con licencia y quienes reciben apoyo y supervisión de CYFD y/u otras agencias privadas.
16. De recibir alimentos adecuados y saludables, vestimentas adecuadas y productos de higiene personal apropiados.
17. De tener todas sus permanencias personales seguras y sean transportadas con usted.
18. De tener un plan permanente de colocación, de participar en el desarrollo del plan y de poder escoger la colocación o el derecho de pedir el cambio de colocación.
19. De estar colocado en un hogar con sus hermanos quienes están en custodia a menos que vaya en contra de su seguridad y/o bienestar.
20. De mantener contacto regular con sus hermanos, estén o no en custodia, a menos que vaya en contra de su seguridad y/o bienestar.
21. De tener contacto regular y continuo (por teléfono, cartas y en persona) lo más pronto que sea posible después de entrar en custodia con padres biológicos, familiares y otras personas importantes en su vida, a menos que vaya en contra de su seguridad y/o bienestar y prohibido por una orden judicial o usted síja no tener contacto.
22. De ser informado por un representante de CYFD cuando el contacto con las personas importantes en su vida están siendo monitoreadas o prohibidas y las razones por las que está siendo monitoreado o prohibido.
23. De permanecer en la misma escuela en la que estaba inscrito antes de entrar en custodia y de permanecer en la misma escuela a lo largo del tiempo que esté en custodia; de contar con los arreglos de transporte para garantizar la inscripción continua en la misma escuela.
24. De asistir y participar en reuniones escolares, incluyendo las conferencias de padres y maestros, reuniones del Plan de Educación Individual (IEP) y reuniones del Plan para los Próximos Pasos (Next Step Planning).
25. De participar en actividades extracurriculares, culturales, espirituales y actividades de enriquecimiento personal.
26. De participar en el desarrollo de su plan de tratamiento, plan de habilidades para la vida, plan de transición y plan de visitas; para recibir información objetiva sobre las decisiones de tratamiento tomadas por la agencia que afectan su vida.
27. De tener un plan para su futuro, que incluye un plan de habilidades para la vida y un plan de transición; de que le ofrezcan servicios que le ayuden a prepararse para tener éxito cuando sea adulto.
28. De una verificación anual de crédito de los 14 a los 18 años.
29. De iniciar una revisión de cualquier decisión de crianza prudente tomada por los padres de crianza temporal, a partir de los 14 años.

Si cree que se han violado sus derechos, envíe un correo electrónico a CYFD.YouthGrievances@sta. nm.us o llame y envíe mensaje de texto al 505-228-6797.
Appendix D | Implementation Target 4.1a and 4.1

YOOTÓ HAHOODZO ÁLCHÍNÍ BAA’ÁDÁHÁYÁNÍ DÓÓ BİBEEHAZHÁNÍI YOUTH BILL OF RIGHTS WOLYÉHGII


Álchíni baa’ádáháyáñíi bii bibehezhá’nii hólóniigíi yil dahalne.

1. Naa’áháyáñíi bibehezhá’nii hólóniigíi bii bibehezhá’nii hólóniigíi yil dahalne.

2. Ádóó áldóó, bá ádíghahgo hááháyájí díi bá há háháyájí díi bá Yootó Hahoodzo Alchíni bá’ádáháyáñíi bii bibehezhá’nii hólóniigíi bii bibehezhá’nii hólóniigíi yil dahalne.


5. Naa’áháyáñíi bii bibehezhá’nii hólóniigíi yil dahalne.


7. Naa’áháyáñíi bii bibehezhá’nii hólóniigíi yil dahalne.

8. Naa’áháyáñíi bii bibehezhá’nii hólóniigíi yil dahalne.


Overview

This report details the work done on quantitative commitments due in December 2020. These commitments include:

1. Approval and notification of children placed in extraordinary circumstances
2. Determination and review of children placed in non-ICWA preferred placements

The period of assessment for this report is January 1, 2020 to December 31, 2020.

The following sections are organized by the settlement’s appendix section and metric number.

The following information will be provided per metric:

1. **Calculation Details**: This section provides additional details about the metric calculation and resulting data.
2. **Calculation Results**: For quantitative metrics that have baseline or proxy data, the resulting value(s) or graphs related to the calculation are provided.

A separate SFTP process has been set up to provide the Co-Neutrals and Plaintiffs all underlying data referenced.
Appendix B: Least Restrictive and Appropriate Placements

Appendix B: Target Outcome 1.1

No child under 18 will be placed in any hotel, motel, out-of-state provider, office of a contractor, or state agency office unless in extraordinary circumstances necessary to protect the safety and security of the child as documented in the child’s record and approved by the Secretary or the Protective Services Director of CYFD and with proper notice as described.

**Metric i Proxy: Extraordinary circumstances**
Percentage of children who had a placement in hotel/motel/office settings, or with out-of-state RTC/group placements for the reporting year.

**Calculation Details**
The 2019 Baseline reported a proxy variable on the percentage of children in non-traditional placements. This was because approval processes related to extraordinary circumstance placements were not in place until December 2020. We are continuing to report on this metric within the 2020 reporting year (Jan 1 – Dec 31 2020)
This metric will offer a sense of the extent to which State personnel rely on non-traditional placements.

**Numerator** = Number of children with office/hotel/motel/out-of-state RTC/group placements
**Denominator** = Total number of children in cohort for the reporting year

**Calculation Results**
3.49% (n=117) of children who had a placement in 2019 (n=3349) were placed with an out-of-state provider, in an office, or in a hotel/motel.

**Metric i: Extraordinary circumstances**
Percentage of children who had a placement in hotel/motel/office settings, or with out-of-state providers, that include required finding and approval of “extraordinary circumstances” and meet all notification requirements. For out-of-state RTC care settings, metric will include appropriate triage meetings.

**Calculation Details**
Two children had extraordinary circumstance placements in December 2020. All of these were with out-of-state providers. One of these children met all approval and timely notification requirements.
A third child was removed from the analysis since they were born out-of-state at the hospital where their out-of-state placement occurred.
Starting in December 2020, two new providers were added to track office stays and hotel/motel stays. Provider #173950 is used to track office stays. Provider #173954 is used to track hotel/motel stays. There were no placements in offices, hotels, or motels during December 2020.

**Calculation Results**
50% (n=1) of children who had an extraordinary circumstance placement in December 2020 (n=2) met all approval and timely notifications requirements.

Appendix C: Indian Child Welfare Act

Appendix C: Target Outcome 4.1

CYFD is committed to having Native American children in ICWA-preferred placements. By December 1, 2020, when a Native American child is in a non-ICWA-preferred placement, the placement will be reviewed every 30 Days.

**Metric i: Time spent in non-ICWA preferred placements**
Average (mean) and median length of time Native American children spent in non-ICWA preferred placements.
Calculation Details

Only placements that started on or after December 1, 2020, were included in this metric. 31 placements for 29 ICWA-eligible or reason-to-know children started in December 2020. Of these children, 19 had a court-determined ICWA status, and the remaining 10 were reason-to-know based off of their race and/or tribal affiliation.

Three of the December placements received a court hearing to determine if the placement was non-ICWA-preferred. All of these placements were found to be not non-ICWA preferred.

Because court determinations often occur months after a placement start, the State started determining the likely ICWA-preferred placement status based on detailed federal requirements (December 2020). so a spreadsheet was created by the State with all Native American child placements during December 2020 identifying federal guideline-based determinations on the ICWA preferred placement status for any child that was ICWA-eligible or had reason to know. Due to a lapse in when a placement starts and when a child receives a court date, CYFD’s assumed ICWA-preferred placement status (following federal guidelines) is used for this metric. Starting in August 2021, the child’s CYFD assumed (according to federal guidelines) ICWA-preferred placement status will be entered into FACTS directly, instead of being tracked through spreadsheets.

As a quality check on CYFD’s determination, the CYFD best-guess determination was compared to official court determinations. For the 3 placements where a court determination did occur, the court and CYFD determination aligned.

Calculation Results

In December 2020, ICWA-Eligible or Reason to Know children (n=29) spent an average of 5.10 days and median of 0 days in non-ICWA preferred placements.

Metric ii: 30-day reviews of non-ICWA preferred placements
Percent of 30-day reviews for non-ICWA preferred placements conducted on time.

Calculation Details

A total of 15 non-ICWA preferred placements (considering children with both a court-determined ICWA-eligibility status, as well as those affiliated with a tribe or Native American race but without a court-determined ICWA status) happened during December 2020.

Of these, one placement was due for a non-ICWA preferred meeting (out-of-preferred-placement meeting, or OOPP) since their placement started on December 1, 2020. This child did not have a court-determined ICWA status, but the State believed that they would eventually be eligible for ICWA because of their known tribal affiliation.

Calculation Results

0% (n=0) of OOPP reviews due (n=1) in December 2020 were completed on time. Notably, this child did not have a court-determined ICWA status at that time.
D: December 2020 Interim Progress Report

This report is offered in fulfillment of the following commitment detailed in the Kevin S Settlement Agreement:

Appendix D – Implementation Target 3.1.a

“HSD will develop and publish reimbursement methodology, billing rates (taking into account validated information regarding adequate rates), and guidance for providers for screening/assessment, High Fidelity Wraparound services, evidence-based, well-supported, or promising therapeutic treatment for children with complex trauma, intensive case management, mobile crisis response services and intensive home-based services, leveraging Medicaid whenever possible. The methodology and guidance will include provider eligibility criteria as well as billing and coding procedures.”

This document is a report on the status of the State’s efforts to ensure appropriate guidance to providers of an array of services as a function of the Kevin S settlement. We describe the process to be taken, along with which department or division will be responsible for various parts, including subject matter experts (SMEs) and specifics of actions that will be taken on a given timeline.

Reimbursement Methodology

Responsible Department & Divisions: HSD – Medical Assistance Division (MAD), with assistance and support from the Behavioral Health Services Division (BHSD)

Description:

• The reimbursement for High Fidelity Wraparound (HFW) services will be a per member per month (PMPM) rate, offered to all providers statewide and calculated according to extant rates for providers of HFW, developed by the State’s Medicaid actuary, Mercer.
• Most trauma treatment, including for complex trauma, is currently fully reimbursable through Medicaid, Medicare, and Private Insurance. In the event there are children that do not fall into one of those categories, HSD and the Collaborative have already instituted mechanisms for providers to enroll with the Administrative Services Organization (ASO) Falling Colors to be paid from State General Funds, as the payer of last resort.
  o This would be the case, for example, with Trauma Focused Cognitive Behavioral Therapy (TF-CBT); Eye Movement Desensitization and Reprocessing (EMDR); Dialectical Behavior Therapy (DBT); and most other EBPs based on a traditional approach to psychotherapy.

Timeline: The Centers for Medicare & Medicaid Services (CMS) may authorize states to conduct demonstration projects that are likely to assist in promoting the objectives of the Medicaid program, allowing for the federal financial participation for state expenditures that would not normally qualify. Currently, HSD operates the New Mexico Managed Care program through an 1115 waiver and will be requesting federal authority to include High Fidelity Wraparound services in the Spring 2021 amendment submission to CMS, with implementation beginning the Summer of 2021. This waiver request should allow HSD to provide payment for services not otherwise billable as an all-inclusive rate including the cost of intensive care coordination in addition to all other necessary behavioral health services and supports. HSD will also be requesting the inclusion of administrative costs for provider
training, monitoring fidelity of the model, and evaluation of the High Fidelity Wraparound program. 1115 Waiver submission is planned for March 1, 2021, with implementation beginning the Summer of 2021.

**Billing Rates**

**Responsible Department & Divisions:** HSD MAD, with assistance and support from BHSD, along with CYFD and the Behavioral Health Collaborative

**Description:** The rates for HFW will be determined through an actuarial process provided by Mercer. Billing rates for most trauma treatment, including for complex trauma, would not need to be revisited for full implementation at this time.

**Timeline:** 1115 Waiver submission is planned for March 1, 2021, with implementation beginning in the Summer of 2021.

**Guidance for Providers**

All six subtitles included below will be included in and addressed directly in specific Provider Guides, such as the documents and training developed by BHSD and provided to the agencies returning to the BH Network following settlements of their suits arising from the 2013 “shake up.” (Attachment) and included in the BH Provider and Billing Manual.

This guidance will be supplemented by recorded guidance (most likely by recording an initial training session for the first cohort of new HFW providers), so as to be available for asynchronous learning by subsequent providers. The training will be provided by BHSD program managers in collaboration with CYFD and the NMSU Center for Innovation.

**Screening/Assessment**

**Responsible Departments & Divisions:** CYFD Behavioral Health Services (CYFD-BHS), with assistance as required from HSD BHSD.

**Description:** The screening assessment will be covered by the finalization and use of the New Mexico (NM) CANS 2020 and the NM CAT (2020) once approved by the Kevin S Co-Neutrals.

Evaluation is a standard part of services provided by licensed behavioral health professionals, and a required element of a diagnostic process. The diagnostic qualification for HFW must include such an evaluation. Children found to have complex trauma, neurological conditions (e.g. ADHD), or other complex presentations may be referred to a licensed psychologist for diagnostic testing to ensure accurate diagnosis included objective, validated tests.

**Timeline:** This will be largely determined by acquisition and deployment of the CAT for screening and the CANS for assessing strengths and needs. Behavioral Health evaluation is available currently. CYFD and BHSD will develop and maintain a statewide cadre of License practitioners available for diagnostic evaluation, including a process of continuous quality improvement. Goal: Late Autumn 2021 for complete development.
High Fidelity Wraparound Services

Responsible Department & Division: New Mexico State University (NMSU) Center for Innovation (COI), under contract with CYFD BHS, with assistance as required from HSD BHSD.

Description: A clear description of the steps needed to be recognized as a Hi Fidelity Wraparound provider already exists, developed by NMSU-COI. It will be reviewed and updated as necessary according to the Wraparound interim report of December 1, 2021.

Timeline: Spring 2021 for submission to Co-Neutrals

Treatment for Children with Complex Trauma

Responsible Department & Divisions: CYFD BHS; CYFD Infant Mental Health Team; HSD BHSD.

Description: Develop menu of potential therapeutic responses for children with complex trauma, with a specific treatment plan (integrated with the overall care plan developed for the child and family) that will include review of progress and needed adjustments to the plan. This menu will include at a minimum: Dialectical Behavior Therapy (DBT), Multi-systemic Therapy (MST), Trauma Focused - Cognitive Behavioral Therapy (TF-CBT), Functional Family Training (FFT), and Eye Movement Desensitization and Reprocessing (EDMR) therapy. A part of the treatment plan will be regular review of therapeutic outcomes (e.g., integrated Quality Service Review) and re-evaluation of approved therapeutic approaches at a rhythm not less frequent than every two years. Reimbursement approach and amounts as well as billing guidance for each element in the menu will be described in provider guidance documents.

Timeline: Summer 2021 for draft submission of menu, training to be offered to appropriate providers in specific therapies, and the plan for evaluation of outcomes

Intensive Case Management

Responsible Departments & Divisions: HSD BHSD and CYFD BHS.

Description: There are already sections on intensive case management in the HSD Provider Manual (Attachment B for the updated version being submitted in December 2020 for public comment; https://www.hsd.state.nm.us/providers/behavioral-health-policy-and-billing-manual.aspx for the current version). The Manual will be reviewed and revised as needed to incorporate the expected revision of the criteria for serious emotional disturbance (SED) expected during the January 2021 Behavioral Health Collaborative meeting.

Timeline: Late Spring 2021 for draft revision of provider manual section on intensive case management as required by Kevin S Settlement Agreement
Mobile Crisis Response Services

Responsible Departments & Divisions: CYFD BHS; HSD BHSD.

Description: CYFD is developing Mobile Response as part of a SAMSHA System of Care grant deliverable. Elizabeth Manley, technical consultant, has been helping develop the model based on what New Jersey used to reform their system of care. In addition, BHSD is in the process of developing a plan for mobile crisis response statewide as an essential element of the BH Crisis Response system arising from development of the national 988 Suicide Prevention Hotline. This development provides for 988 as the national number to call for BH crises, including suicidality, thus relieving 911 of this responsibility. The planning for implementation of 988 includes a dedicated BH crisis call center (in New Mexico this function will be shared by Agora and the New Mexico Crisis and Access Line); mobile response to BH crisis provided by BH professionals; and BH Crisis response centers.

Timeline: Late Spring 2021 for draft service definitions and the process for rate development; Summer 2022 for deployment of mobile crisis response.

Intensive Home-Based Services

Responsible Departments & Divisions: CYFD BHS with assistance from HSD BHSD.

Description: The State will utilize Multi Systemic Therapy (MST), and other evidence based approaches, such as Functional Family Therapy (FFT) as appropriate.

Timeline: Spring 2021 for draft payment methodology and rate.
E: Progress Report on New Mexico’s Effort to Build High Fidelity Wraparound Capacity

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Progress Report on New Mexico’s Efforts to Build High Fidelity Wraparound Capacity

Settlement reference:

Appendix D – Targeted Outcome 3.1

High Fidelity Wraparound services, intensive case management, and intensive home-based services (including those listed on page 14a of the agreement) will be available to every child in state custody for whom they are medically necessary

Appendix D – Targeted Outcome 3.1a

HSD will produce to the Co-Neutrals and Plaintiffs’ counsel a detailed progress report on the State’s efforts to build High-Fidelity Wraparound capacity.

This report provides an overview of the current status of High-Fidelity Wraparound in New Mexico and a progress report on the plan to expand access to wraparound statewide. It incorporates an update on the wraparound billing methodology, beginning on page 10.

PURPOSE: WHY WRAPAROUND

Wraparound is a service model for the top tier of children with behavioral health and mental health disorders. Most mental health disorders have their roots in childhood, with 50% of affected adults manifesting disorders by age 14 and 75% by age 24 (HHS, 1999; Institute of Medicine and National Research Council, 2009). An estimated 20% of children in the United States have a diagnosable mental health condition. Between 7% to 12% of children in the United States meet the Serious Emotional Disturbed (SED) criteria (Interdepartmental Serious Mental Illness Coordinating Committee 2017).

Devastating consequences, including poor academic achievement, dropping out of school, substance abuse, involvement with the correctional system, lack of vocational success, inability to live independently, and suicide, often result from serious mental health conditions (National Alliance on Mental Illness (NAMI, 2010)). New Mexico has consistently ranked as the lowest, or one of the lowest states in child wellbeing in the U.S. New Mexico’s 513,000 children under the age of 19 have a larger portion than most states of emotional, social, and psychological disorders.

The Cost of Care: Mental health conditions are the costliest conditions of childhood wellbeing. The population of children with the most serious and complex mental health needs are
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comparatively small, however, costs for these children are disproportionate to the costs of serving all children with mental health conditions. Behavioral health expenses are almost 5 times higher than for Medicaid children in general. Approximately 10% of youth with the most serious and complex behavioral health needs consume 40% -70% of all child-serving resources (Bruns et al., 2010; Center for Health Care Strategies, 2011, March; Pires, Grimes, Allen, Gilmer, & Mahadevan, 2013). Children in the top 10% of behavioral health expenses are nearly 18 times more expensive than Medicaid children in general (SAMHSA Results from the 2008 national survey on drug use and health: National findings NSDUH Series H-36, HHS Publication No SMA-09-4434. Rockville, MS. SAMHSA Office of Applied Studies: 2009). This finding has been attributed to their high utilization of expensive and restrictive treatment in psychiatric inpatient and residential treatment settings, costs that are borne largely by the public sector (Cooper et al., 2008).

Children with serious and complex mental health conditions are often involved with additional systemic supports in addition to Medicaid such as child welfare, juvenile justice, special education, early childhood, and systems for youth of transition age. These systems also spend substantial resources in high-cost services and it can be assumed that the costs of serving these children extend well beyond Medicaid.

The Effectiveness of the Status Quo: Inpatient or residential placements for treatment of mental health conditions are costly and have little evidence of long-term effectiveness (Burns, Hoagwood, & Maultsby, 1998; U.S. Public Health Service, 2000). Research has not demonstrated that children fare better in congregate facilities than family care and some studies have shown the outcomes are worse. Despite limited information related to efficacy with children, psychotropic medications are a commonly prescribed first-line treatment for a range of psychiatric diagnoses in children in a variety of clinical settings (Ninan, A., Stewart, S. L., Theall, L. A., Katuwapitiya, S., & Kam, C. (2014)).

SYSTEMS OF CARE:

A system of care is a spectrum of effective, community-based services and supports for children and youth with or at risk for mental health or other challenges and their families, that is organized into a coordinated network, builds meaningful partnerships with families and youth, and addresses their cultural and linguistic needs, in order to help them to function better at home in school, in the community, and throughout life (Georgetown University Center for Child and Human Development, National Technical Assistance Center for Children’s Mental Health).

The System of Care approach has a core set values: Community-based, family-driven, youth-guided, and culturally and linguistically competent services. The approach also has guiding principles that call for a broad array of home- and community-based services and supports, individualized care provided in the least restrictive setting, family and youth involvement, cross-system collaboration, care management, and accountability.
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The primary premise of systems of care is that safe and positive outcomes can be obtained through the increased use of more cost-effective home- and community-based services and supports. To accomplish this shift toward a greater emphasis and utilization of home- and community-based services, the system of care approach uses a care coordination approach called “Wraparound”. This approach has been the primary way that systems of care are operationalized at the child and family level, and there is a growing evidence base documenting its effectiveness in achieving positive outcomes along with cost savings (Bruns & Suter, 2010).

WRAPAROUND DEFINED:

Wraparound is an intensive holistic method of engaging with individuals with complex needs so that they can live in their homes and communities and realize their hopes and dreams (The National Wraparound Institute). “High-fidelity Wraparound” is a term increasingly used to refer to a process that meets the definition and standards for Wraparound developed by the National Wraparound Initiative (Walker, Bruns, & Penn, 2008; http://nwi.pdx.edu/). The Wraparound approach entails assembling a child and family team that includes the child and family, involved providers, and natural supports identified by the family. The team develops an individualized service plan that tailors services and supports for the child and family across all life domains. The plan prioritizes community-based interventions that are least restrictive and least intrusive. The team continues to meet regularly to monitor progress and make adjustments to services and supports as needed. A dedicated Wraparound facilitator or care manager organizes and manages the process, working intensively with the child and family.

Trauma researchers, practitioners and survivors have recognized that the understanding of trauma and trauma-specific interventions is not sufficient to optimize outcomes for trauma survivors nor to influence how service systems conduct their business. What is required is a trauma informed response. A program, organization, or system that is trauma-informed realizes the widespread impact of trauma and understands potential paths for recovery; recognizes the signs and symptoms of trauma in clients, families, staff, and others involved with the system; and responds by fully integrating knowledge about trauma into policies, procedures, and practices, and seeks to actively resist re-traumatization (SAMHSA’s Concept of Trauma and Guidance for a Trauma-Informed, 2014). The system responds with the appropriate sense of urgency to the needs of the child and family. The Wraparound process is able to respond in a trauma responsive way. (See Appendix 1)

EFFECTIVENESS OF WRAPAROUND:

The Wraparound approach has been academically examined and High-Fidelity Wraparound has consistently delivered desired outcomes. By 2014 there were 22 published controlled studies of Wraparound (Coldiron, Bruns, & Quick Studies, 2017). Wraparound affords New Mexico the ability to evolve its behavioral health care while achieving desired outcomes: Family/youth
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engagement in their care, reduction of system involvement (Such as child welfare and juvenile justice), and reduction of behavioral health costs.

**Youth/Family Engagement:**

Wraparound focuses on working with those youth that have the most complex needs. These needs are holistic in nature and may simultaneously affect a youth and family across various life domains. The complexity and number of these needs often overwhelm traditional services which opt to discharge youth or move them to higher levels of care. As youth and families get shuffled through services it is inherent that they develop a negative perception of their treatment which influences subsequent willingness to engage service providers.

Lengths of stay in Wraparound approaches range from about 7-18 months, with certain populations of children – such as those involved in child welfare or with complex co-occurring conditions – typically having longer enrollment. (Center for Healthcare Strategies, July 2014). One main reason for the length of treatment is that engagement difficulties are typically inherent in Wraparound cases. However, the Wraparound approach with its values such as Perseverance, Voice and Choice, Normalization and Outcome Based lends itself to bridge engagement barriers. Wraparound differs from other approaches because it is a highly collaborative process in which the needs of children and youth with mental health and behavioral disorders are addressed (Suter and Burns 2009). (See Appendix 2)

**Reduction in System Involvement & Improved Social & Emotional Functioning:**

Ironically, youth and families often have the same desired outcomes that systems do, such as exiting systems involvement, meeting educational milestones and feeling better. Even though youth and families share these common goals the approach of the latter in meeting them tends to not be effective when it comes to complex needs. Systems and behavioral health providers place focus and energy in realizing the goals as a means to reduce the concerning behavior(s). Strategies and interventions developed are meant to carry the youth/families to the destination. For the population with the highest and most complex needs this approach is not effective. A focus on goals and behavior assumes a lack of skill, even willingness, from the youth and family, often ignoring other reasons.

The Wraparound holistic approach lends itself to grasping barriers with their depth. The depth of these barriers are often founded on traumatic experiences and therefore do not lend themselves to quick, fit all, solutions. In Wraparound these barriers are termed as Underlying Needs and are often referred to as the root cause of the concerning behavior(s). As a matter of fact in Wraparound, the concerning behaviors are understood as the individual’s way for meeting their underlying need. Since underlying needs are often rooted in trauma it usually takes some time to truly discover them as the youth/family must be willing to be vulnerable with their Wraparound facilitator and team to discuss these topics.

In 2017, New Mexico conducted a demonstration pilot project to evaluate the impact of the High-Fidelity Wraparound (CYFD-Coop Consulting 2019). There was an undeniable theme that
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illustrated that youth involved in Wraparound have better quality of life and outcomes the longer they stayed in Wraparound. Those youth who discharged successfully from Wraparound reported:

- 56% increase in community supports;
- 58% decrease in child welfare involvement;
- 60% increase in nurturing parenting;
- 77% improvement in overall child health;
- 65% increase in positive behavior;
- 62% increase in improvement in safety;
- 73% increase in school or work function.

One of the most impactful results of this evaluation was that 70% of those who completed the Wraparound process stated that their life had improved greatly.

Positive Return on Investment (ROI):

In addition to high prevalence rates, mental health conditions are the costliest conditions of childhood (Agency for Healthcare Research and Quality [AHRQ] Research Brief #242; Soni, 2009). Children with severe and complex mental health conditions experience multiple admissions to inpatient and residential treatment facilities and often have extended lengths of stay in those settings (Stroul, B., Pires, S., Boyce, S., Krivelyova, A., & Walrath, C. (2014). Return on investment in systems of care for children with behavioral health challenges). The costs for treatment in settings such as inpatient psychiatric hospitals or residential treatment centers are extremely high, while the evidence base for the efficacy of these services is relatively low (Burns, Hoagwood, & Maultsby, 1998; U.S. Public Health Service, 2000).

Every constituency is always charged with the responsibility of providing the best possible service at the best value available. As referenced above, care for youth/families with the greatest need tend to drive costs of behavioral health care. In part this is due to the approach explained above where behavior and goals are the focus. With such an approach, at the lack of outcomes, additional services are prescribed as well as increasing levels of care as acuity increases. Unfortunately, adding services and/or using higher levels of care still do not yield the desired outcomes.

As described above, Wraparound delivers the outcomes youth/families, systems, and providers seek. In addition, Wraparound delivers these outcomes while reducing costs.

There are also increasing data on ROI from the many states and communities that have implemented Wraparound. States and communities that have implemented the system of care approach (Driven through the implementation of Wraparound) have reported changes in service utilization patterns. Such changes have resulted in cost savings for the public systems that serve children with serious mental health conditions and their families (Stroul, B., Pires, S., Boyce, S., Krivelyova, A., & Walrath, C., 2014). This same publication included the following ROI data:
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- A study found that youth in the Wraparound group experienced fewer out-of-home placements and fewer mean days in out-of-home placements than a matched comparison group that had graduated from residential care. Post-graduation costs were also approximately 60% lower than costs for the matched comparison group—$10,737 for the wraparound group, compared with $27,383 for the comparison group (Los Angeles County, CA).

- A study showed a net reduction in Medicaid spending of 29%, even though the use of home- and community-based services and targeted case management increased. Expenditures declined from an average annual expenditure of $58,404 before wraparound to $41,873 per youth per year. This decrease was due to a 43% decline in inpatient costs and a 29% decline in residential treatment expenses (Maine).

- Since its inception, Wraparound Milwaukee has reduced costs by more than 50% (from over $8,000 per child per month to about $3,450 per child per month). Declines in costs are attributed to reduced utilization of inpatient and residential treatment.

- After implementation of a system of care approach using Wraparound, Medicaid claims were decreased by 43% in the 12 months after enrollment, whereas the reduction in costs for the control group was only 20% for the same time period (Pennsylvania).

- Savings were greatest for children who had been in residential treatment facilities prior to the initiation of wraparound services—an overall 38% reduction in claims. This finding indicates that the approach is particularly effective for youth using high-cost services such as residential treatment (Pennsylvania).

- From FY's 2009 to 2012, per member per month expenditures on inpatient services decreased by more than 40% (from 27% to 16%), and expenditures for intensive community-based services increased. By 2012, intensive community-based services constituted the largest portion of Medicaid spending (Massachusetts).

HIGH FIDELITY

Researchers on human services implementation typically define fidelity as “the degree to which programs are implemented as intended by the program developers” (Dusenbury, Brannigan, Falco, & Hansen, 2003). When referring to Wraparound fidelity a few factors must be taken into consideration: Wraparound does not have single developer, it is based on a philosophical approach and it requires infrastructure for its implementation to be done to fidelity. Meaning that adherence to its practice model should also consist of measurement of both whether its core activities (Values and Core Elements) are being completed as well as whether necessary support conditions are in place (Bruns, E. (2008). Measuring Wraparound Fidelity).

Importance of Fidelity: Research on the efficacy of Wraparound consistently demonstrates the model’s effectiveness. It is important to note that several of the controlled studies that found null results (e.g., Bickman et al. 2003; Bruns et al. 2014) documented that Wraparound was not
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High Fidelity Wraparound is the term commonly used to describe a Wraparound process that tightly adheres to the Wraparound model. In recent years, concerns about the “black box” of Wraparound have led to efforts to better specify the wraparound practice model, provide more consistent training and implementation supports, and develop and deploy fidelity measures (Admin of Policy Mental Health. 2015, Eric J. Bruns, et al, 2015).

New Mexico Wraparound CARES (Comprehensive, Accessible, Responsive, Effective, and Strengths Based) has partnered with the University of Washington’s Wraparound Evidence Research Team (WERT) for the use of three fidelity evaluation tools: The Wraparound Fidelity Index (WFI-EZ), The Team Observation Measure (TOM) and The Documentation and Assessment Review Tool (DART). (See Appendix 3)

PROGRESS AND NEXT STEPS

Revise SED Definition: Dr. Neal Bowen, Director of HSD’s Behavioral Health Services Division (BHSD), is recommending the following changes to the existing SED Definition:

1. Remove the criteria cited by plaintiffs:

   In addition to one of the qualifying traumatic events above, there must also be an ex parte order issued by the children’s court or the district court which includes a sworn written statement of facts showing probable cause exists to believe that the child is abused or neglected and that custody is necessary.

2. Update elements to reflect a clear, current, expert understanding of potential experiences that can lead to Complex Trauma (which is still not a diagnosis in the DSM 5, but proposed for the ICD 11). Among the elements to be changed:

   - Remove the list of experiences listed under “Diagnoses” Part B, as the current understanding of the development of complex trauma includes a broader array of experiences than is reflected in the list. In fact Cloitre (2020, The British Journal of Psychiatry, March pp 129-131) notes “trauma history is now recognised as a risk factor rather than a requirement for” either PTSD or Complex PTSD;
   - Replacing the list of trauma symptoms under “Symptoms” which reflect PTSD as defined in an earlier version of the Diagnostic and Statistical Manual of Mental Disorders (DSM), with symptoms commonly observed with the presence of Developmental Trauma;
   - Clarify that the child must have functional impairment in at least two of the listed capacities, rather than exactly two.
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The full proposed list of revisions will be complete in time for evaluation by the Behavioral Health Collaborative at the January 2021 meeting.

Since the current definition was approved by the Behavioral Health Collaborative in 2015, Dr. Bowen is proposing to raise the issue for vote at the January 2021 quarterly Behavioral Health Collaborative meeting.

GENERAL ELIGIBILITY CRITERIA FOR NM:

- Children or youth with a SED diagnosis;
- Functional impairment in two or more domains (CANS is used to determine);
- Involved in two or more systems (special education, behavioral health, protective services, juvenile justice); and
- At risk or in an out of home placement.

SERVICE DEFINITION:

The purpose of High-Fidelity Wraparound (HFW) is to coordinate and assist young people and their families in achieving important outcomes by helping them meet unmet needs both within and outside of formal human services networks while they return to, or remain in, their local communities. Wraparound transitions with the child/youth through multiple phases of recovery and permanency.

HFW is youth-driven, family-centered, community-based, and strengths-based. HFW includes an individualized planning process and Action Plan to support the young person and their family in the Wraparound process. HFW will identify, access, obtain, and monitor mental health, social services, educational services, other formal services, and natural and community supports that will assist the young person and their family in meeting their needs and achieving their vision. (See Appendix 4)

PHASE ONE: Given that children in protective services custody are most at risk, the 2,132 New Mexican children in CYFD custody will be phase one of the implementation. Bernalillo, Chaves, Cibola, Curry, Dona Ana, Eddy, Lea, Otero, Rio Arriba/Los Alamos, San Juan, San Miguel/Guadalupe/Mora, Santa Fe, Taos, and Valencia counties all have over 40 children in CYFD custody. (See Appendix 5: Table 1)

Wraparound is currently in 10 counties with 61 facilitators. To reach the goal of serving all children in CYFD custody we would need 101 facilitators in 17 counties (Table 2). The remaining 150 children in surrounding frontier and rural areas, could be served by agencies in nearby counties with an additional range differential (over 60 miles) with an additional 10 facilitators. Taos, Sierra, Socorro, Quay/De Baca/Harding, Lincoln, Grant/Catron, and
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Colfax/Union counties remain a high priority, especially Taos and Grant/Catron due to the higher number of children in CYFD custody and because of the geographical challenges.

![Table 2: Priority Counties]

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**THE COST OF HI-FIDELITY WRAPAROUND**

The return on investment of Hi Fidelity Wraparound is well researched, as stated and referenced above. The two areas of cost are broken out below:

**INFRASTRUCTURE COSTS:**

These are currently being funded by CYFD SAMSHA federal grants and state general fund (2.5 FTE’s in CYFD), including positions at NMSU. Services provided include: provider training; ensuring fidelity of the model, and evaluation of HFW.

Total costs are approximately $69,000 per month or $828,000 per year. Continuing the CYFD partnership with NMSU’s Center of Innovation (COI) the cost will be approximately $1,500,000 a year. (Appendix 6 contains infrastructure budget categories for the COI)

If allowed by the Centers for Medicare and Medicaid (CMS), these costs may be included in the Per Member Per Month (PMPM) paid to the provider. Otherwise, the state must utilize state general funds as grant funding has terminated. HSD is exploring ways to assure federal CMS funding is able to help pay these costs. In FY2020, there were 286 children and youth in NM who received Wraparound, breakout below.
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<th>Fiscal Year ’20 Wraparound Enrollment Data - CYFD involvement</th>
</tr>
</thead>
<tbody>
<tr>
<td>TOTAL</td>
</tr>
<tr>
<td>-------</td>
</tr>
<tr>
<td>286</td>
</tr>
<tr>
<td>121</td>
</tr>
</tbody>
</table>

The benefit of the partnership between CYFD and NMSU’s Center of Innovation, is that as the model becomes sustainable for providers, administrative costs can be required for application, training, and continued education. The COI can employ coaches and trainers to continue to seed the system of care with high quality subject matter experts.

**BILLING METHODOLOGY:**

HSD met with the Centers for Medicare and Medicaid (CMS), the regulatory body that approves state’s Medicaid program design, to discuss our options to build High Fidelity Wraparound capacity. There are a variety of options the state can utilize to operationalize this effort and HSD sought guidance on the fastest and most effective way to request approval for the payment of services as outlined in this report. The options evaluated include waivers as well as state plan amendments. Because HSD has an approved 1115 waiver through which we operate our managed care program, and currently has efforts underway to submit an amendment to this waiver before the end of the calendar year, this is likely the fastest vehicle to achieving this implementation. Additionally, applying for a waiver should allow HSD to address current provider limitations on which providers can provide HFW, provide payment for services not otherwise billable, and continue to expand the population of children served overtime.

Rates for wraparound can be structured in a number of ways, including as case rates paid daily, monthly, annually, or per episode of care to the provider or managed care organization. The most common rate structure for Wraparound is a PMPM, with case rate also represented in other states.

HSD will utilize its actuary, Mercer, to develop an actuarially sound rate for HFW. HSD is currently considering a couple of reimbursement methodologies for HFW. One option is to utilize the current PMPM reimbursement methodology that was implemented for the Medicaid HFW Health Home providers which are provider specific and require much more time and effort to develop. A second and much more preferred option is to establish a single reimbursement rate based on Mercer’s assessment of the two current HFW providers. HSD has researched reimbursement rate in other states and has found them to differ based on the model. A recommended process will be included in the 1115 waiver amendment which requires HSD to ensure budget neutrality.
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PROVIDER TYPE:

New Mexico is proposing to expand provider types eligible to provide High Fidelity Wraparound, by explicitly including, in addition to Health Homes, the Behavioral Health Agency (BHA) 432 provider type with Wraparound as sub-specialty, Federally Qualified Health Centers (FQHC) and Tribal Providers with designation as either a BHA or FQHC. Providers of one of the above types, with documented experience with SED children and families, as well as care coordination, case management, care coordination, or resource management will be allowed to enroll as a Medicaid HFW provider when also found to be ready for Hi Fidelity Wraparound by the NMSU Center of Innovation.

PROVIDER CERTIFICATION PROCESS

(See Appendix 7: Wraparound Provider Process Flow Chart)

Providers will send a letter of interest to NMSU’s Center of Innovation. COI will request information and once received and the agency meets criteria, the process flows through an Interagency Council consisting of CYFD, BHSD, and Medicaid representatives will review and determine if a provider may proceed with the next steps to enroll as a Medicaid provider and contract with Managed Care Organizations (MCOs). MCO’s will receive contracted provider list from HSD/CYFD and will only authorize payment for providers endorsed by Interagency Council to ensure fidelity to the model.

CYFD and NMSU have created a provider implementation manual, which will need to be amended once this process is confirmed.

ROLE OF MCO

The role of the Managed Care Organizations (MCOs) is under development and will be dependent in part on CMS approval of the state’s 1115 waiver amendment. HSD is currently considering requirements for the MCOs including reimbursement rate(s), care coordination, ensuring and monitoring access to HFW, assessment and oversight of medical necessity, monitoring of quality of services, data collection, paying for start-up or training costs. HSD will not require a prior authorization process for HFW but will require the providers, as in the current model, to continue determination of whether the child/youth meet the criteria for the service. The provider manual will include expectations about educating children and youth and their family on their rights to appeal denial of access to this service.
Appendix D | Implementation Target 4.1a and 4.1

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REFERRAL PROCESS:

Current Status of Structured Referral System/Process

The current process for providers receiving referrals is dependent on CYFD-Protective Services and Juvenile Justice, community stakeholder (Providers, Schools, etc.), or the MCOs. Formal outreach such as Wraparound 101 presentations and informal outreach in the form of one on one meetings are necessary to ensure a steady flow of referrals. Lack of awareness of the availability of Wraparound services is one barrier as is a lack of understanding of the value of Wraparound within those potential referral sources. While the NM Wraparound CARES program provides guidance and requires certain components be a part of any referral processes there are differences with each current provider in how they receive referrals and what the process is for enrolling new clients in services.

Structured Referral System/Process Development Plan

Enhancements to CYFD’s information system, currently under development, will allow for direct referrals when eligibility criteria are met. This will ensure equity and consistency to access services as opposed to the CYFD workers making subjective decisions. The Child & Adolescent Needs and Strengths (CANS) Tool will be an essential component of a screening system for Protective Services to refer automatically to Hi Fidelity Wraparound. Screening criteria based on a CANS score and other assessment tools need to be developed. CYFD will also develop a procedure and a system of accountability to ensure referrals occur in all instances in which they are indicated. CYFD and HSD, through the Interagency Council, will develop internal protocols as well as guidance for external referral sources to understand when and how to refer to Hi Fidelity Wraparound.
Appendix I:

1. Generally accepted essential ingredients for Trauma Informed Care

   - Addressing the difficulty of adjusting to past trauma
   - Acknowledging the impact of trauma on key developmental timeframes
   - Assisting in shifting perspective to bring a new reality
   - Utilizing sensory strategies to address the lower brain
   - Creating resiliency building key strong relationships
   - Building an understanding of true meaning for an individual; their reason for waking up in the morning
   - Assuring caregiver capacity-taking care of self; work/life balance, identifying limits

Wraparound addresses these ingredients by:

   - Eliciting a personal or family vision of a future.
   - Building a safe and trusting relationship
   - Recognizing and listening for level of past trauma and its current effects
   - Building a strengths based personal / family narrative to create new perspective
   - Listening and building upon functional strengths
   - Listening for needs vs. problems
   - Providing real help in a real way
   - Assisting families in rediscovering a dependable, community-centered support system
   - Encouraging self-care of Wraparound facilitators
Appendix 2: This success of Wraparound getting youth and family to engage in their own care is evidenced in the following:

- Youth and families demonstrate an increased accessing services while in Wraparound (Coldiron, Bruns, & Quick Studies, 2017)
- Youth had fewer placement changes compared to youth not enrolled in Wraparound
  - Overall functional improvement as rated by the CAFAS and CANS ((Evidence Base and Wraparound, Bruns, 2010)
- In a New Mexico study on the demonstration of the efficacy of Wraparound 56% of youth demonstrated an increase in community supports (CYFD-Coop Consulting 2019).
- A meta-analysis of research and an update in 2010 found studies in multiple sites that document both improved outcomes and reduced costs when wraparound is implemented with fidelity (Brans & Suter, 2010):
- A study of youth in the juvenile justice system in Clark County WA found that a group receiving Wraparound had 58% fewer days of detention, 57% fewer days served, and lower recidivism rates than a comparison group receiving conventional mental health services.
- A study in Los Angeles county CA found that youth in the Wraparound group experienced fewer out-of-home placements and fewer mean days in out-of-home placements than a matched comparison group that had graduated from residential care.
- A study in Massachusetts found that youth receiving Wraparound had 74% lower inpatient expenses and 32% lower ER expenses than a comparison group.
- Overall there was less use of less of out-of-home placements and general use of less restrictive settings (Evidence Base and Wraparound, Bruns, 2010)
- Overall Maintenance of youth in community residential placements (Suter & Bruns, 2009).
- More rapid closure of child protective services cases (Evidence Base and Wraparound, Bruns, 2010)
- Improved Juvenile Justice outcomes (Suter & Bruns, 2009).
- Youth in Wraparound had fewer days incarceration when compared to another group (Evidence Base and Wraparound, Bruns, 2010)
- Improvement in school functioning (Suter & Bruns, 2009)
- Improvements in school grade point average (Evidence Base and Wraparound, Bruns, 2010)
- Improvement in mental health outcomes (Suter & Bruns, 2009)
- Youth showed “significant improvement in behavioral and emotional problems, increases in behavioral and emotional strengths, and improved functioning at home at school, and in the community (Pullman et al., 2006)
Appendix 3:

**Elements of Fidelity:** In order to support the fidelity of implementation of the Wraparound approach, training in wraparound implementation and fidelity assessment measures have increasingly become recognized as essential to the process (Sather & Bruns, 2016).

Since 2014 New Mexico, through the Behavioral Health Services of the Children Youth and Families Department, has been dedicating resources to developing a High Fidelity implementation practice in our state. This has culminated in the development of a NM Wraparound CARES Readiness Assessment and Provider Application process and the High Fidelity Wraparound Program Manual and Provider Implementation Guide.

The existing provider application and readiness assessment process provides orientation on the philosophy of Wraparound and asks the behavioral health provider to demonstrate their readiness or willingness to make changes in order to align their entire practice to the Wraparound approach. Upon acceptance of a behavioral health provider’s application, NM Wraparound CARES, via the NMSU COI, provides technical assistance to the provider in hiring, onboarding, structuring of their wraparound program.

The Wraparound Program Manual outlines the Facilitator in Training (FIT) certification track for new facilitators. This track requires a combination of 100 hours of training and coaching, a minimum case load requirement, competency assessments, and fidelity assessments. For a complete description of the certification process please see the full manual. [https://bhs.nmsu.edu/files/2020/03/1-NM-WRAPAROUND-CARES-implementation-Guide-REVISED12.1.19.pdf](https://bhs.nmsu.edu/files/2020/03/1-NM-WRAPAROUND-CARES-implementation-Guide-REVISED12.1.19.pdf)

New Mexico Wraparound CARES has partnered with the University of Washington’s Wraparound Evidence Research Team (WERT) for the use of three fidelity evaluation tools: The Wraparound Fidelity Index (WFI-EZ), The Team Observation Measure (TOM) and The Documentation and Assessment Review Tool (DART).

As a fidelity measurement system, these tools were designed to support both program improvement as well as research. With respect to program improvement, these tools can generate profiles, organized by the prescribed activities of the Wraparound process or the 10 principles of Wraparound, to illuminate areas of relative strength and weakness. This information can be used to guide program planning, training, and quality assurance (Quality Assurance and Fidelity Monitoring Tools, WERT).
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With respect to research, data from these instruments can help evaluate whether the Wraparound process has been adequately implemented, and thus aid interpretation of outcomes. In addition, researchers on youth and family services may wish to use these evaluations to measure the relationship between adherence to the Wraparound model and outcomes, as a way to explore which aspects of service delivery are most important to child and family well-being (Quality Assurance and Fidelity Monitoring Tools, WERT).


Overview of WERT Fidelity Monitoring Tools

Fidelity data is collected through three tools, the Team Observation Measure (TOM), Wraparound Fidelity Index (WFI), and the Documentations Assessment Review Tool (DART).

The TOM tool collects information through the observation of team meetings by a Wraparound coach. A team meeting is observed with the objective of measuring to degree to which the facilitator facilitated the team meeting according to Wraparound principles:

- Team composition
- Effective team work
- Driven by Strengths and families
- Based on priority needs
- Use of natural & community supports
- Outcome based process
- Skilled facilitation

The WFI collects information through a survey of youth, caregiver, team members and Wraparound facilitators. The survey is conducted after a team meeting and it asks team members to rate their experience/perspective in the following areas:

- Basic demographic information from the family including custody,
- Use of a team based approach
Appendix D
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- Level the family voice and choice in the development of a plan
- How the Wraparound process has brought the appropriate support, and outcomes
- A Strength based approach
- Crisis planning by the team
- Satisfaction with the Wraparound Process
- Outcomes through progress in the home, school, social, and community domains

The DART collects information from case files. It is designed to identify critical elements in documentation that match fidelity and practice standards. This information includes:

- Basic information about the circumstances of the document review, and the youth enrolled in Wraparound. This information provides necessary context for interpreting results and can help internal or external program evaluators detect trends in fidelity
- Timely engagement
- Wraparound Key Elements
- Safety Planning
- Crisis Response
- Transition Planning
- Outcomes (Assesses whether or not various potential adverse events (hospitalization, placement, arrest) have occurred since the youth enrolled in Wraparound and whether or not their mental health, interpersonal and school functioning has changed)
Appendix 5:

Children in custody by county, # of facilitators current and needed, in counties with over 40 children

<table>
<thead>
<tr>
<th>County</th>
<th>Children</th>
<th>Facilitators</th>
<th>Current</th>
<th>Need</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bernalillo</td>
<td>682</td>
<td>50</td>
<td>20</td>
<td>30</td>
</tr>
<tr>
<td>Chaves</td>
<td>118</td>
<td>8</td>
<td>3</td>
<td>5</td>
</tr>
<tr>
<td>Cibola</td>
<td>54</td>
<td>4</td>
<td>0</td>
<td>4</td>
</tr>
<tr>
<td>Curry</td>
<td>71</td>
<td>5</td>
<td>0</td>
<td>5</td>
</tr>
<tr>
<td>Dona Ana</td>
<td>162</td>
<td>12</td>
<td>2</td>
<td>10</td>
</tr>
<tr>
<td>Eddy</td>
<td>111</td>
<td>8</td>
<td>0</td>
<td>8</td>
</tr>
<tr>
<td>Lea</td>
<td>132</td>
<td>10</td>
<td>*14</td>
<td></td>
</tr>
<tr>
<td>Otero</td>
<td>75</td>
<td>5</td>
<td>0</td>
<td>5</td>
</tr>
<tr>
<td>Rio Arriba/Los Alamos</td>
<td>74</td>
<td>5</td>
<td>0</td>
<td>5</td>
</tr>
<tr>
<td>San Juan</td>
<td>111</td>
<td>8</td>
<td>3</td>
<td>11</td>
</tr>
<tr>
<td>San Miguel/Guadalupe/Mora</td>
<td>96</td>
<td>7</td>
<td>0</td>
<td>7</td>
</tr>
<tr>
<td>Santa Fe</td>
<td>83</td>
<td>6</td>
<td>0</td>
<td>6</td>
</tr>
<tr>
<td>Taos</td>
<td>45</td>
<td>2</td>
<td>0</td>
<td>2</td>
</tr>
<tr>
<td>Valencia</td>
<td>88</td>
<td>6</td>
<td>4</td>
<td>2</td>
</tr>
<tr>
<td>Roosevelt</td>
<td>11</td>
<td>7</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sandoval</td>
<td>39</td>
<td>3</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>McKinley</td>
<td>30</td>
<td>2</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>Totals</td>
<td>1982</td>
<td>141</td>
<td>43</td>
<td>101</td>
</tr>
</tbody>
</table>
Appendix D

<table>
<thead>
<tr>
<th>Implementation Target 4.1a and 4.1</th>
</tr>
</thead>
</table>

**Appendix 6: Budget Categories for Sustaining High-Fidelity Wraparound with a Center of Innovation.**

<table>
<thead>
<tr>
<th>Center of Innovation/CYFD Wraparound Costs</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personnel</td>
</tr>
<tr>
<td>Director</td>
</tr>
<tr>
<td>Curriculum Training and Data Manager</td>
</tr>
<tr>
<td>Specialist</td>
</tr>
<tr>
<td>Training and Certification Program Coordinator</td>
</tr>
<tr>
<td>Fiscal Program Coordinator</td>
</tr>
<tr>
<td>Graduate Assistants</td>
</tr>
<tr>
<td>Admin Assistant</td>
</tr>
<tr>
<td>Provider Coordinators/Coaches/Trainers @ CYFD</td>
</tr>
<tr>
<td>Clinical Manager @ CYFD</td>
</tr>
<tr>
<td>Evaluation and Quality Service Review Manager</td>
</tr>
<tr>
<td>Provider Support and TA</td>
</tr>
<tr>
<td>Contractors &amp; Consultants</td>
</tr>
<tr>
<td>Wraparound Coaches/Coach the Coaches-Contractors</td>
</tr>
<tr>
<td>Consultant/Content Expert Annual</td>
</tr>
<tr>
<td>Certification Board</td>
</tr>
<tr>
<td>Program Expenses</td>
</tr>
<tr>
<td>Annual Training Costs</td>
</tr>
<tr>
<td>Fidelity &amp; CANS Fees- WERT &amp; Praed</td>
</tr>
<tr>
<td>COI Website and Tracking System</td>
</tr>
<tr>
<td>Travel &amp; National Conference Trainings, etc.</td>
</tr>
</tbody>
</table>
F: Letter Granting an Extension

August 4, 2020

Dear Co-Neutrals,

This letter memorializes the agreement between the parties to the Kevin S. v. Blalock (No. 1:18-cv-00896) settlement agreement (collectively, the “Parties”) to extend by 180 days the deadline for compliance with some of the commitments scheduled to be completed in 2020 in the settlement agreement. The Parties have agreed to these extensions in light of the significant impact of the COVID-19 pandemic that arose subsequent to the negotiation and execution of the agreement.

The Parties agree that CYFD and HSD will meet the following commitments in 2020:

1. The commitments and deliverables identified by the State in its letter of June 16, 2020 (attached hereto as Exhibit 1) as those for which the State did not seek an extension of time will be completed and subject to Co-Neutral review on the dates indicated in the settlement agreement. ¹

2. Appendix A, Implementation Target 1.1 will be completed and subject to Co-Neutral Review on the date indicated in the settlement agreement. (“CYFD, with input and collaboration from HSD, will establish Child and Adolescent Needs and Strengths (“CANS”) and functional trauma assessment criteria for access to intensive home-based services in consultation with clinical experts agreed upon by Defendants and Plaintiffs.”). The Parties further agree that Dr. George Davis (at no cost to the State), Bryce Pittenger, and Dr. Neal Bowen will serve as the above-referenced clinical experts.

3. By December 1, 2020, CYFD and HSD will identify, and Co-Neutrals will approve, the form of the Child and Adolescent Needs and Strengths Crisis Assessment Tool (“CANS-CAT”) and comprehensive CANS screening tools referenced in Appendix A, Implementation Target 1.

4. Appendix B, Target Outcome 1.1 will be completed and subject to Co-Neutral² Review on the date indicated in the settlement agreement (prohibition on placement in any hotel, motel, out-of-state provider, office of a contractor, or state agency office unless in extraordinary circumstances necessary to protect the safety and security of the child and with proper documentation, approval, and notice).

¹ As indicated in May 18, 2020 letter from Co-Neutrals to Defendants, for commitments that require Co-Neutral review and approval, a draft will need to be submitted to Co-Neutrals at least 60 days before the deadline, or in this instance by October 1, 2020.

² As indicated in May 18, 2020 letter from Co-Neutrals to Defendants, for any commitments that require data verification, methodology and baseline data for related metrics will need to be submitted to Co-Neutrals with time for review. Co-Neutrals have asked Defendants to identify dates when such deliverables will be provided.
5. By December 1, 2020, HSD will produce to the Co-Neutrals and Plaintiffs’ counsel a detailed interim progress report on the State’s efforts to implement the commitment in Appendix D, Implementation Target 3.1 (development and publication of reimbursement methodology, billing rate information, and guidance for providers). The deadline for completion and Co-Neutral review of Appendix D, Implementation Target 3.1 will be extended by 180 days.

6. By December 1, 2020, CYFD, with input from HSD and Dr. George Davis, will publish in the public record for comment proposed regulations governing medication protocols to ensure that Children in State Custody are not overmedicated, while ensuring timely access to medically necessary medication and treatment. These proposed regulations will comply in all respects with the terms of Appendix D, Implementation Target 4. The deadline for adoption of these proposed regulations, as specified in Appendix D, Implementation Target 4, will be extended by 180 days.

7. By December 1, 2020, HSD will produce to the Co-Neutrals and Plaintiffs’ counsel a detailed progress report on the State’s efforts to build High-Fidelity Wraparound capacity.

The Parties further agree that, except as specified above, the deadline for completion and Co-Neutral review of all other commitments scheduled to be completed during 2020 will be extended by 180 days.

Nothing in this letter agreement is intended to alter or amend any other commitment or provision described in the Kevin S. v. Blalock settlement agreement.

Sincerely,

[Signature]
On Behalf of Plaintiffs

James Cowan [Digitally signed by James Cowan]
Date: 2020/06/21 19:05:00-0600
On Behalf of Defendants
## G: Chart of December 2020 Commitments

### December 2020 Commitments

The following Implementation Targets, Target Outcomes and progress reports were agreed to in the FSA and modified by letter dated August 4, 2020.

<table>
<thead>
<tr>
<th>FSA Reference</th>
<th>Description</th>
<th>Due</th>
</tr>
</thead>
<tbody>
<tr>
<td>VI</td>
<td>Initial meeting among parties</td>
<td>7/31/20</td>
</tr>
<tr>
<td>App A Impl. Targ. 1.1</td>
<td>CYFD, with input and collaboration from HSD, will establish Child and Adolescent Needs and Strengths (“CANS”) and functional trauma assessment criteria for access to intensive home-based services in consultation with clinical experts agreed upon by Defendants and Plaintiffs.</td>
<td>12/1/20</td>
</tr>
<tr>
<td>App A Targ. Outc. 1.1</td>
<td>CYFD and HSD will identify, and Co-Neutrals will approve CANS-CAT and comprehensive CANS screening tools.</td>
<td>12/1/20</td>
</tr>
<tr>
<td>App B Impl. Targ. 2.1</td>
<td>CYFD will publish guidance prohibiting retaliation.</td>
<td>12/1/20</td>
</tr>
<tr>
<td>App B Impl. Targ. 3.2</td>
<td>CYFD will promote its internal Grievance Procedure for youth.</td>
<td>12/1/20</td>
</tr>
<tr>
<td>App B Impl. Targ. 3.3</td>
<td>CYFD will develop a Grievance Procedure for Resource Families.</td>
<td>12/1/20</td>
</tr>
<tr>
<td>App B Targ. Outc. 1.1</td>
<td>No child under 18 will be placed in any hotel, motel, out-of-state provider, office of a contractor, or state agency office unless in extraordinary circumstances necessary to protect the safety and security of the child as documented in the child's record and approved by the Secretary or the Protective Services Director of CYFD and with proper notice as described.</td>
<td>12/1/20</td>
</tr>
<tr>
<td>App C Impl. Targ. 4.1</td>
<td>CYFD will maintain a full-time employee responsible for developing/ maximizing culturally responsive services, and for coordinating/ overseeing provision of culturally responsive services by local staff.</td>
<td>12/1/20</td>
</tr>
<tr>
<td>App C Impl. Targ. 8.1</td>
<td>CYFD and HSD will create and maintain a dedicated ICWA unit and work with AOC to implement lessons learned from the ICWA unit and court throughout the state.</td>
<td>12/1/20</td>
</tr>
<tr>
<td>App C Targ. Outc. 4.1</td>
<td>CYFD is committed to having Native American Children in ICWA-preferred placements. When a Native American child is in a non-ICWA-preferred placement, the placement will be reviewed every 30 days.</td>
<td>12/1/20</td>
</tr>
<tr>
<td>App.</td>
<td>Targ.</td>
<td>Outc.</td>
</tr>
<tr>
<td>------</td>
<td>-------</td>
<td>-------</td>
</tr>
<tr>
<td>App. C</td>
<td>Targ.</td>
<td>Outc.</td>
</tr>
<tr>
<td>App. C</td>
<td>Targ.</td>
<td>Outc.</td>
</tr>
<tr>
<td>App. D</td>
<td>Impl.</td>
<td>Targ.</td>
</tr>
<tr>
<td>App. D</td>
<td>Impl.</td>
<td>Targ.</td>
</tr>
<tr>
<td>App. D</td>
<td>Targ.</td>
<td>Outc.</td>
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</tbody>
</table>