THOMAS E. PEREZ, Assistant Attorney General
EVE HILL, Senior Counselor to the Assistant Attorney General
ALLISON J. NICHOL, Chief
SHEILA FORAN, Special Legal Counsel
KATHLEEN R. WOLFE, Acting Special Legal Counsel
RENEE M. WOHLENHAUS, Deputy Chief
TRAVIS W. ENGLAND, Trial Attorney, NY SBN 4805693
Travis.England@usdoj.gov
U.S. Department of Justice
950 Pennsylvania Avenue, N.W. - NYA
Washington, D.C. 20530
Telephone: (202) 307-0663
Facsimile: (202) 307-1197
ANDRE BIROTTE JR.
United States Attorney
LEON W. WEIDMAN
Assistant United States Attorney
Chief, Civil Division
ROBYN-MARIE LYON MONTELEONE
Assistant United States Attorney
Assistant Division Chief,
Civil Rights Unit Chief, Civil Division
California Bar Number: 130005
Robby.Monteleone@usdoj.gov
Room 7516 Federal Building
300 North Los Angeles Street
Los Angeles, California 90012
Telephone: (213) 894-2458
Facsimile: (213) 894-7819
ATTORNEYS FOR UNITED STATES

UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

KATIE A. by and through her next friend Michael Ludin; MARY B. by and through her next friend Robert Jacobs; JANET C. by and through her next friend Dolores Johnson; HENRY D. by and through his next friend Gillian Brown; AND GARY E. by and through his next friend Michael Ludin; individually and behalf of others similarly situated,
Plaintiffs,

v.

TOBY DOUGLAS, Director of California Department of Health Care Services; LOS ANGELES COUNTY; LOS ANGELES

CASE NO. CV-02-05662 AHM (SHX)
CLASS ACTION
COMMENTS OF THE UNITED STATES IN SUPPORT OF FINAL APPROVAL OF THE PROPOSED SETTLEMENT AGREEMENT

Hearing Date: **Dec. 1, 2011**
Time: 2:00 p.m.
Courtroom: 14
Judge: A. Howard Matz

COUNTY DEPARTMENT OF CHILDREN AND FAMILY SERVICES; ANITA BLOCK, Director of the Los Angeles County Department of Children and Family Services; WILL LIGHTBOURNE, Director of the California Department of Social Services, and DOES 1 through 100, Inclusive.
Defendants.

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The United States respectfully submits these Comments in support of final approval of the Proposed Settlement Agreement (hereinafter, the "Agreement"). The United States has a strong interest in the resolution of this matter because it advances the important public interest of compliance with title II of the Americans with Disabilities Act, 42 U.S.C. § 12131 et seq., and the Early and Periodic Screening, Diagnostic and Treatment ("EPSDT") provisions of Title XIX of the Social Security Act ("Medicaid Act"), 42 U.S.C. § 1396 et seq., including the prevention of segregation, isolation, and unnecessary institutionalization of individuals with disabilities. *See Olmstead v. L.C.*, 527 U.S. 581, 607, 119 S.Ct. 2176, 2190 (1999). The Agreement between Plaintiffs and the State defendants is "fair and reasonable," *see In re Bluetooth Headset Products Liability Litigation*, 654 F.3d 935, 946 (9th Cir. 2011) (*citing Churchill Vill., L.L.C. v. Gen. Elec.*, 361 F.3d 566, 575 (9th Cir. 2004)), and addresses Plaintiffs' allegations that Defendants violate federal law by failing to provide needed community-based mental health services to children in or at imminent risk of placement in the State's foster care system.[1] Accordingly, the United States respectfully urges this Court to grant final approval of the Agreement.

[1] The United States recognizes that the Agreement advances the objective of facilitating the delivery of an array of medically necessary mental health services in a coordinated, comprehensive, and community-based fashion to full-benefit Medi-Cal eligible class members. (*See* Settl. Agr. ¶¶ 20(a)-(g),(i)). As discussed more fully below, pp. 9 to 11, the EPSDT requirements of the Medicaid Act mandate Defendants to ensure the provision of mental health services that are within the permissible scope of the traditional Medicaid benefit to all full-benefit Medi-Cal-eligible children for whom such services are medically necessary. *See* 42 U.S.C. §§ 1396d(a)(4)(B); 1396d(r)(5); 1396a(a)(10)(A); and 1396a(a)(43)(C).

BACKGROUND

Plaintiffs represent a statewide class of children in California that this Court earlier certified, who:

> (a) are in foster care or are at imminent risk of foster care placement,[2] and
>
> (b) have a mental illness or condition that has been documented or, had an assessment already been conducted, would have been documented, and
>
> (c) need individualized mental health services, including but not limited to professionally acceptable assessments, behavioral support and case management services, family support, therapeutic foster care, and other medically necessary services in the home or in a home-like setting, to treat or ameliorate their illness or condition.

(Settl. Agr. ¶ 3; *see also* Order Re Class Cert., ECF No. 92, at 21-22.) This lawsuit alleges that Toby Douglas, current director of the California Department of Health Care Services ("DHCS"), and Will Lightbourne, current Director of the California Department of Social Services ("CDSS") (together, the "Defendants") fail to provide Plaintiffs and members of the Class with necessary community-based mental health services, and instead rely on services provided in restrictive,

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[2] The Parties have stipulated that "imminent risk of foster care placement" means that

> within the last 180 days a child has been participating in voluntary family maintenance or voluntary family reunification placements and/or has been the subject of either a telephone call to the Child Protective Services hotline or some other documented communication made to a local Child Protective Services agency regarding suspicions of abuse, neglect or abandonment.

(Settl. Agr. ¶ 3; *see also* Proposed Stip. J. Pursuant to Class Action Settl. Agr., Appx. A. to Settl. Agr. ECF No. 755, ¶ 2(c).)

congregate, and institutional placements, in violation of the Medicaid Act and the ADA. (Pls.' First Am. Compl. ("Compl."), ECF. No. 33, ¶¶ 47, 76, 80-87.)[3]

THE PARTIES' SETTLEMENT AGREEMENT

The Agreement expresses four objectives: (a) to "[f]acilitate the provision of an array of services delivered in a coordinated, comprehensive, community-based fashion that combines service access, planning, delivery, and training into a coherent and all-inclusive approach;" (b) to "[s]upport the development and delivery of a service structure and a fiscal system that supports a core practices and services model, as described in (a);" (c) to "[s]upport an effective and sustainable solution that will involve standards and methods to achieve quality-based oversight, along with training and education that support the practice and fiscal models;" and (d) to "[a]ddress the need for certain class members with more intensive needs … to receive medically necessary mental health services in their own home, a family setting or the most homelike setting appropriate to their needs, in order to facilitate reunification, and to meet their needs for safety, permanence, and well-being." (Settl. Agr. ¶ 19.)

In furtherance of these objectives, the Agreement requires Defendants to, among other things, support the development and delivery of an array of coordinated, community-based mental health services and develop a process "to identify class members and link them firmly to services." (*See id.* ¶¶ 20(a)-(g), (i)). Defendants must develop and disseminate a Medi-Cal Specialty Mental Health documentation manual ("Documentation Manual") designed to inform and instruct

[3] Plaintiffs also allege that Defendants' actions violate their rights under the Due Process clauses of the United States and California Constitutions. (*See* Compl. ¶¶ 77-79, 88-90.)

providers on the provision of Intensive Care Coordination ("ICC")[4] and Intensive Home Based Services ("IHBS")[5] consistent with Core Practice Model Principles and Components ("Core Practice Model"),[6] and to submit to the Centers for Medicare and Medicaid Services ("CMS") amendments to the California State Medicaid Plan to include ICC and IHBS consistent with this approach (Settl. Agr. ¶¶ 20(a)(1), (b)1, (c)). Defendants must also specifically facilitate the provision

---

[4] The Agreement defines ICC as a service "responsible for facilitating assessment, care planning, and coordination of services." (Appx. E to Settl. Agr..) The components of ICC include a "strengths-based, needs driven comprehensive assessment," development of an Individual Care Plan ("ICP"), referral, monitoring and related activities to meet the needs identified in the ICP, and development of a transition plan when the individual has achieved the goals outlined in the ICP. (*Id.*)

[5] The Agreement defines IHBS as services that are "individualized, strength-based interventions designed to ameliorate mental health conditions that interfere with a child's functioning." (Appx. D to Settl. Agr..) The interventions are designed to help the child "build skills necessary for successful functioning in the home and community and improving the child's family's ability to help the youth successfully function in the home and community." (*Id.*) Services are designed to educate and train the child's family in managing the child's disorder, to provide medically-necessary skill-based remediation of disorders, to improve the child's self-care, self-management of symptoms, and social decorum, and to support the development and maintenance of social support networks, employment and educational, and independent living objectives. (*Id.*)

[6] The Core Practice Model, defined in Appendix "B" to the Agreement, is designed, among other things, to facilitate the provision of a full array of necessary mental health services to class members, and to ensure that services are individualized, delivered through a multi-agency collaborative approach, and provided in the child and family's community. (*See* Appx. B to Settl. Agr.) The Documentation Manual must outline that ICC and IHBS are to be provided utilizing a Child and Family Team, as defined in Appendix "C" to the Agreement. (*See* Settl. Agr. ¶ 20(b)(1)).

of ICC and IHBS to a Subclass of plaintiffs.[7] (*See Id.* ¶ 19(d)(1); Special Master's Rept. Pursuant to Agr. ("Special Master's Rept."), ECF No. 751, at 8.) The Agreement further requires Defendants to include in the Documentation Manual instructions to providers regarding the provision of Therapeutic Foster Care ("TFC") services, as defined in *Katie A. v. Bonta*, 433 F. Supp. 2d 1065, 1072 (C.D. Cal. 2006). (*See* Settl. Agr. ¶ 20(a)(2).) The Agreement stipulates that TFC services:

> (a) place a child singly, or at most in pairs, with a foster parent who is carefully selected, trained, and supervised and matched with the child's needs;
>
> (b) create, through a team approach, an individualized treatment plan that builds on the child's strengths;
>
> (c) empower the therapeutic foster parent to act as a central agent in implementing the child's treatment plan;
>
> (d) provide intensive oversight of the child's treatment, often through daily contact with the foster parent;
>
> (e) make available an array of therapeutic interventions to the child, the child's family, and the foster family (including behavioral support services, crisis planning and intervention, coaching and

---

[7] The Agreement defines Subclass members as children and youth who are full-scope Medi-Cal eligible, meet medical necessity, have an open child welfare services case, and either: (a) are currently in or being considered for wraparound, therapeutic foster care or other intensive services, therapeutic behavioral services, specialized care rate due to behavioral health needs or crisis stabilization/ intervention; or (b) are in or being considered for a group home (RCL 10 or above), a psychiatric hospital or 24 hours mental health treatment facility, or has experienced [3] or more placements within 24 months due to behavioral health needs. (Settl. Agr. ¶ 19(d)(1).)

> education for the foster parent and child's family, and medication monitoring) … ; and
>
> (f) enable the child to successfully transition from therapeutic foster care to placement with the child's family or alternative placement by continuing to provide therapeutic interventions.

(*See* Settl. Agr. ¶ 20(a)(2)) (referring to the definition of TFC in *Katie A.*, 433 F. Supp. 2d at 1072).[8]

STATUTORY AND REGULATORY BACKGROUND

A. The ADA and the Integration Mandate

Congress enacted the ADA in 1990 "to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities." 42 U.S.C. § 12101(b)(1). Congress found that "historically, society has tended to isolate and segregate individuals with disabilities, and, despite some improvements, such forms of discrimination against individuals with disabilities continue to be a serious and pervasive social problem." 42 U.S.C. § 12101(a)(2). For those reasons, Congress prohibited discrimination against individuals with disabilities by public entities:

> [N]o qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.

---

[8] The Agreement stipulates that, to the extent that "activities and/or components of TFC services" are covered under the Medicaid Act, "the State Plan needs to be amended to cover TFC services that are covered under the Medicaid Act but are not covered in the State Plan." (Settl. Agr. ¶ 20(a)(2)(A)(3).) Any amendment to the State Plan must first be submitted to CMS for approval.

42 U.S.C. § 12132.

As directed by Congress, the Attorney General issued regulations implementing title II, which are based on regulations issued under Section 504 of the Rehabilitation Act.[9] *See* 42 U.S.C. § 12134(a); 28 C.F.R. § 35.190(a); Exec. Order 12250, 45 Fed. Reg. 72995 (1980), *reprinted in* 42 U.S.C. § 2000d-1. The title II regulations require public entities to "administer services, programs, and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities." 28 C.F.R. § 35.130(d). The preamble discussion of the "integration regulation" explains that "the most integrated setting" is one that "enables individuals with disabilities to interact with nondisabled persons to the fullest extent possible...." 28 C.F.R. Pt. 35, App. B at 673 (2011).

Twelve years ago, the Supreme Court applied these authorities and held that title II prohibits the unjustified segregation of individuals with disabilities. *Olmstead*, 527 U.S. at 596. There, the Court held that public entities are required to provide community-based services to persons with disabilities when (a) such services are appropriate; (b) the affected persons do not oppose community-based

---

[9] Section 504, like title II, prohibits disability-based discrimination. 29 U.S.C. § 794(a) ("No otherwise qualified individual with a disability . . . shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance . . . ."). In all ways relevant to this discussion, the ADA and Section 504 of the Rehabilitation Act are generally construed to impose similar requirements. *See Sanchez v. Johnson,* 416 F.3d 1051, 1062 (9th Cir. 2005); *Zukle v. Regents of Univ. of California,* 166 F.3d 1041, 1045 n.11 (9th Cir. 1999). This principle follows from the similar language employed in the two acts. It also derives from the Congressional directive that implementation and interpretation of the two acts "be coordinated to prevent[ ] imposition of inconsistent or conflicting standards for the same requirements under the two statutes." *Baird ex rel. Baird v. Rose*, 192 F.3d 462, 468-69 (4th Cir. 1999) (citing 42 U.S.C. § 12117(b)) (alteration in original).

treatment; and (c) community-based services can be reasonably accommodated, taking into account the resources available to the entity and the needs of others who are receiving disability services from the entity. *Id.* at 607.

To comply with the ADA's integration requirement, a state must reasonably modify its policies, procedures, or practices when necessary to avoid discrimination. 28 C.F.R. § 35.130(b)(7). The obligation to make reasonable modifications may be excused only where a state demonstrates that the requested modifications would "fundamentally alter" the programs or services at issue. *Id.*; *see also Olmstead*, 527 U.S. at 604-07.

B. The EPSDT Requirements of the Medicaid Act

Under the EPSDT provisions of the Medicaid Act, participating states must provide coverage to categorically Medicaid-eligible individuals under the age of twenty-one for all medically necessary treatment services described in the Medicaid Act at 42 U.S.C. § 1396d(a), which sets forth the scope of the traditional Medicaid benefits package. 42 U.S.C. § 1396a(a)(43); 42 U.S.C. § 1396d(a)(4); 42 U.S.C. § 1396d(r)(1)-(5). Such treatment services must be covered for EPSDT-eligible children and youth, even if the State has not otherwise elected to provide such coverage for other populations. 42 U.S.C. § 1396d(r)(5).

The EPSDT mandate requires states to effectively inform EPSDT-eligible individuals "of the availability of [EPSDT] services," 42 U.S.C. § 1396a(a)(43)(A), and to provide or arrange for "screening services in all cases where they are requested," 42 U.S.C. § 1396a(a)(43)(B). Thus, a State must make available comprehensive assessments of EPSDT-eligible children who have behavioral, emotional or psychiatric impairments. 42 U.S.C. § 1396a(a)(43)(B); *see also Rosie D. v. Romney*, 410 F. Supp. 2d 18, 52-53 (D. Mass. 2006) ("[T]he

EPSDT provisions of the Medicaid statute require, by their very language, comprehensive assessments of children with [serious emotional disturbance].").

The State must also arrange for (either directly or through referral to other agencies) corrective treatment, the need for which is discovered by the screening. 42 U.S.C. § 1396a(a)(43)(C). The scope of the treatment to be provided for is defined by 42 U.S.C. § 1396d(r) and includes dental, hearing and vision services, and "[s]uch other necessary health care, diagnostic services, treatment, and other measures described in [42 U.S.C. § 1396d(a)]. . . to correct or ameliorate defects and physical and mental illnesses and conditions discovered by the screening services, whether or not such services are [otherwise] covered under the state plan . . . ." 42 U.S.C. §§ 1396d(r)(1)-(5); *see also* 42 C.F.R. § 440.130.

Thus, under § 1396d(r)(5), states must "cover every type of health care or service necessary for EPSDT corrective or ameliorative purposes that is allowable under § 1396d(a)." *Katie A., ex rel. Ludin v. Los Angeles Cty.*, 481 F.3d 1150, 1154 (9th Cir. 2007); (*citing S.D. ex rel. Dickson v. Hood*, 391 F.3d 581, 590 (5th Cir. 2004); *Collins v. Hamilton*, 349 F.3d 371, 376 n.8 (7th Cir. 2003); *Pediatric Speciality Care, Inc. v. Ark. Dep't of Human Servs.*, 293 F.3d 472, 480-81 (8th Cir. 2002); *Pittman v. Sec'y, Fla. Dep't of Health & Rehab.*, 998 F.2d 887, 891-92 (11th Cir. 1993); *Pereira v. Kozlowski*, 996 F.2d 723, 725-26 (4th Cir. 1993)). A service must be covered by the EPSDT program if it can properly be described as one of the services listed in the Medicaid Act, 42 U.S.C. § 1396d(a). *See, e.g.*, *Dickson*, 391 F.3d at 594-97 (finding that incontinence supplies were within the scope of home health services described in § 1396d(a) and that the state violated EPSDT provisions by denying Medicaid-eligible children such services); *Parents' League for Eff. Autism Serv. v. Jones-Kelley*, 339 Fed. Appx. 542, 546 (6th Cir.

2009) (affirming preliminary injunction enjoining state from restricting rehabilitative services for Medicaid-eligible children with autism).

States must provide all component services required under § 1396d(a), and they must provide those services effectively. *Katie A.*, 481 F.3d at 1159 ("States also must ensure that the EPSDT services provided are reasonably effective.") Where necessary to meet the needs of children with serious emotional or behavioral disorders, the services must be provided in a coordinated fashion. *Id.* at 1161. Many children will need all services for the effective treatment of their condition, and the delivery of all services in a coordinated fashion will be necessary to avoid unnecessary and harmful institutionalization.

COMMENTS IN SUPPORT OF THE AGREEMENT

The denial of community-based mental health services results in significant harm to Plaintiffs and class members, including the exacerbation of their conditions in inappropriate foster placements, deterioration to the point of crisis, and unnecessary institutionalization in violation of the ADA. (*See* Compl. ¶¶ 4-7; 47); *see also Katie A. v. Bonta*, 433 F. Supp. 2d at 1078 (noting grave harm of unnecessary institutionalization), *reversed and remanded on other grounds*, *Katie A.*, 481 F.3d at 1156-57. The United States recommends that this Court grant final approval of the Agreement because it represents a "fundamentally fair, reasonable, and adequate" resolution of this litigation that addresses the significant harms identified in the Complaint. Fed. R. Civ. P. 23(e)(2); *see also In re Mego Fin. Corp. Sec. Litig.*, 213 F.3d 454, 458 (9th Cir. 2000).[10] Further, the Agreement

[10] To determine whether a settlement is "fair reasonable and adequate," a court generally looks to the following factors: (1) the strength of Plaintiffs' case, (2) the risk, expense, complexity, and likely duration of litigation, (3) the risk of maintaining a class action status throughout the trial, (4) the amount offered in settlement, (5) the extent of discovery completed and the stage of proceedings, (6)

advances the public interest in moving Defendants towards compliance with federal law.

A. The Agreement is Likely to Reduce Institutional Placements and further the State's Compliance with the Integration Mandate of title II of the ADA.

Plaintiffs brought this action seeking declaratory and injunctive relief, in part, under the ADA and the Medicaid Act. (*See* Compl. ¶¶ 55-63, 76, 80-87.) By failing to offer services at home, and in home-like and other community-based settings, and instead requiring Plaintiffs to enter restrictive, institutional settings to receive services, Defendants fail to provide services in the most integrated setting appropriate to Plaintiffs' needs, in violation of the ADA and Section 504 of the Rehabilitation Act and their implementing regulations. (*See* Compl. ¶¶ 7, 18, 23, 27, 29, 40, 52, 80-87); 42 U.S.C. § 12132; 29 U.S.C. § 794; 28 C.F.R. §§ 35.130(d), 41.51(d); *Olmstead*, 527 U.S. at 600-01; *see also Katie A.*, 481 F.3d at 1160 ("[t]he district court, however, did describe plaintiffs' vulnerability, complex needs, and ongoing 'unmet mental health needs and the *harms of unnecessary institutionalization.*'") (emphasis added). The Agreement reflects the strength of Plaintiffs' claims by requiring Defendants to expand community-based services within the State's foster care and mental health systems to reduce the systems'

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the experience and views of counsel; (7) the presence of a governmental participant; and (8) the reaction of class members to the settlement. *In re Bluetooth Headset Products Liability Litigation,* 654 F.3d at 946 (*citing Churchill Vill., L.L.C. v. Gen. Elec.,* 361 F.3d 566, 575 (9th Cir. 2004); *Torrisi v. Tucson Elec. Power Co.*, 8 F.3d 1370, 1375 (9th Cir. 1993)). The United States addresses only the first factor – the strength of Plaintiffs' case and the degree to which it is reflected by the Agreement – but concurs that the weight of these factors warrants final approval of the Agreement.

reliance on institutional placements. *See Disability Advocates, Inc. v. Paterson*, 598 F. Supp. 2d 289, 316-19 (E.D.N.Y. 2009), *appeal docketed*, 10-235-CV(L) (2d Cir. 2010) (holding that the defendants' planning, funding, and administration of a service system reliant on institutional placements is sufficient to support an *Olmstead* claim). The Agreement contains legally binding commitments from the Defendants to ensure the expansion of intensive mental health services available to foster children and youth with intensive mental health needs, and to reform the manner in which mental health services are provided. (*See* Settl. Agr. ¶¶ 20(a)-(g), (i).) The expansion of these services promotes the important aim of title II's integration mandate to reduce reliance on costly, inappropriate, and unnecessary institutional placements. *See Olmstead*, 527 U.S. at 607.

B. The Agreement is Consistent with the State's Obligation to Provide Medically Necessary Services Under the EPSDT Requirements of the Medicaid Act.

Plaintiffs' Medicaid Act claims arise from the Act's EPSDT provisions, which, as discussed above, pp. 9 to 11, require states participating in Medicaid to ensure the provision of all Medicaid-coverable services to EPSDT-eligible individuals for whom the services are medically necessary. 42 U.S.C. §§ 1396d(a)(4)(B); 1396d(r)(5); 1396a(a)(10)(A); and 1396a(a)(43)(C). Plaintiffs assert that by depriving Medicaid-eligible children in foster care medically necessary mental health services, Defendants violate the EPSDT requirements of the Medicaid Act. (Compl. ¶¶ 55-63, 76). The Agreement defines certain expanded community-based mental health services, to include ICC, IHBS, and TFC, and to facilitate the provision of medically necessary services to EPSDT-

eligible individuals who are members of the Subclass.[11] Under the Medicaid Act, a state is permitted to cover many of the various components of ICC, IHBS and TFC outlined in the Agreement as "diagnostic, screening, preventative, and rehabilitative services . . . ."[12] *See* 42 U.S.C. § 1396d(a)(13). Other Medicaid authorities may also be available for the coverage of these services. CMS has, in other States, approved coverage of intensive mental health services similar to those outlined within the Agreement. *See, e.g. Massachusetts State Plan for Medical Assistance*, *State Plan Amendment* # 08-004, effective Apr. 1, 2009 (relevant excerpts attached as Exhibit 1) (covering EPSDT services under Rehabilitation Services); *Oregon State Plan for Medical Assistance* § 3.1a, pp. 6-f—6-f.2 (relevant excerpts attached as Exhibit 2) (covering EPSDT services as Behavioral Rehabilitation Services); *Nevada State Plan for Medical Assistance,* (relevant excerpts attached as Exhibit 3) (covering EPSDT services under Rehabilitation Services). This Court and the Ninth Circuit Court of Appeals found that the Plaintiffs presented persuasive evidence that the intensive mental health services outlined within the Agreement are likely covered services under the Medicaid Act. *See Katie A.*, 481 F.3d at 1156 (stating that "the District Court cited those [other] states' practices as support for its conclusion that wraparound and TFC are

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[11] As noted *supra*, n. 1, the United States recognizes that the Defendants' obligations under the Agreement are narrower than what is required under the EPSDT requirements of the Medicaid Act, which requires Defendants to ensure the provision of medically necessary service to all EPSDT-eligible individuals.

[12] Section 1396d(a)(13) defines as covered medical services any "diagnostic, screening, preventative, and rehabilitative services, including any medical or remedial services . . . for the maximum reduction of physical or mental disability and restoration of an individual to the best possible functional level." 42 U.S.C. § 1396d(a)(13).

Medicaid-covered services. Evidence in the record supports the Court's findings, and defendants have not presented any strong evidence to the contrary."); *Katie A.*, 433 F. Supp. 2d at 1075 (stating that "[t]he Court finds it likely that virtually all of the corresponding categories of § 1396d(a) identified by Plaintiffs do, in fact, encompass the linked-to service [described in Plaintiff's declaration].").

If such EPSDT services are medically necessary to correct or ameliorate a mental health condition, the statute requires the State to provide coverage for them. *See Dickson*, 391 F.3d at 595-96 ("CMS's approval of state plans affording coverage for [the services sought by plaintiff] demonstrates that the agency construes [the Medicaid Act] as encompassing that type of medical care or service" and therefore required to be covered under EPSDT). If medically necessary, it is the State's obligation to provide the type of EPSDT required services that are included in therapies like ICC, IHBS, and TFC services *effectively* to eligible children. *Katie A.*, 481 F.3d at 1160 (discussing a prior case in which a Massachusetts district court concluded that adequate in-home behavioral support services was a required EPSDT service which the state had failed to provide); *Rosie D.*, 410 F. Supp. 2d at 52-53 (state violated EPSDT provisions by failing to provide to children with serious emotional disorders adequate and *effective* comprehensive assessments, ongoing case management and monitoring, and in-home behavioral support services). Thus, by expanding the availability of medically necessary services for EPSDT-eligible children and youth with significant behavioral health needs, the Agreement advances the important goal of furthering the State's compliance with the EPSDT requirements of the Medicaid Act.

CONCLUSION

For the foregoing reasons, the United States respectfully urges this Court to grant final approval of the Agreement.

DATED: November 18, 2011

Respectfully submitted,

ANDRÉ BIROTTE
United States Attorney
Central District of California

LEON W. WEIDMAN
Assistant United States Attorney
Chief, Civil Division

ROBYN-MARIE LYON MONTELEONE,
California Bar Number 130005
Assistant United States Attorney
Assistant Division Chief, Civil Rights
Unit Chief, Civil Division

THOMAS E. PEREZ
Assistant Attorney General

EVE HILL
Senior Counselor to the Assistant
Attorney General

/s/
ALLISON J. NICHOL,
Chief
KATHLEEN R. WOLFE,
Acting Special Legal Counsel
SHEILA FORAN,
Special Legal Counsel
RENEE M. WOHLENHAUS,
Deputy Chief
TRAVIS W. ENGLAND,
New York SBN 4805693
Trial Attorney
Civil Rights Division
Disability Rights Section

U.S. Department of Justice
950 Pennsylvania Avenue, N.W. - NYA
Washington, D.C. 20530
Telephone: (202) 307-8987
Facsimile: (202) 307-1197
travis.england@usdoj.gov

EXHIBIT 1

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
JFK Federal Building, Government Center
Room 2275
Boston, Massachusetts 02203

CMS
CENTERS for MEDICARE & MEDICAID SERVICES

Division of Medicaid and Children's Health Operations / Boston Regional Office

June 4, 2009

JudyAnn Bigby, M.D., Secretary
Executive Office of Health and Human Services
1 Ashburton Place, Room 1109
Boston, Massachusetts 02108

Dear Dr. Bigby:

We have reviewed Massachusetts State Plan Amendment (SPA) No. 08-004, received in the Boston Regional Office on March 25, 2008. This amendment adds Early Periodic Screening, Diagnosis, and Treatment services for individuals under age 21 with severe emotional disturbance and implements the judgment of the Federal District Court in Rosie D. v. Romney. Based on the information provided, we are pleased to inform you that Massachusetts SPA 08-004 is approved, with an overall effective date of April 1, 2009, but with the following effective dates for the individual services contained in the SPA:

- Mobile Crisis Intervention – July 1, 2009
- In-Home Behavioral Services – October 1, 2009
- In-Home Therapy Services – November 1, 2009
- Therapeutic Mentoring Services – October 1, 2009
- Family Support and Training – July 1, 2009

Enclosed is a copy of the CMS-179 form, as well as the approved pages for incorporation in the Massachusetts Medicaid State Plan. The Remarks section of the CMS-179 indicates the changes that were mutually agreed to during the processing of this SPA.

Please contact Aaron Wesolowski of my staff if you have any question. Aaron Wesolowski can be reached at 617-565-1325 or by email at aaron.wesolowski@cms.hhs.gov.

Sincerely,

Richard R McGreal

Richard R. McGreal
Associate Regional Administrator

cc: Thomas Dehner, Medicaid Director
Michael Coleman, State Plan Coordinator

State Plan under Title XIX of the Social Security Act
State: Massachusetts
Limitations to Services Provided to the Categorically Needy

Item 2.a: Outpatient Hospital Services

See **Supplement to Attachment 3.1-A**, page 1, Item 1, #1 and #4.

Item 4.a: Nursing Facilities Services

If a utilization review team recommends that a recipient in a multi-level long-term-care facility be changed to a lower level of care, the facility is responsible for relocating a recipient to the recommended level of care within the facility. The recipient has the right to appeal the recommendation.

Item 4b: Early and Periodic Screening, Diagnostic and Treatment services for individuals under 21 years of age, and treatment of conditions found.

In addition to all other medically necessary services covered for individuals under age 21, the following services are covered as Rehabilitation services as defined in 42 USC 1396d (a) (13). These services are provided to, or directed exclusively toward the treatment of, the Medicaid eligible individual:

a. **Mobile Crisis Intervention** (Services described in this section are effective July 1, 2009.)
Mobile Crisis Intervention provides a short term service that is mobile, on-site, face-to-face therapeutic response to a youth experiencing a behavioral health (mental health or substance abuse) crisis for the purpose of identifying, assessing, treating, and stabilizing the situation and reducing the immediate risk of danger to the youth or others consistent with the youth's risk management/safety plan, if any. Services are available 24 hours a day, 7 days a week. Phone contact and consultation may be provided as part of the intervention. Mobile crisis services may be provided by a single crisis worker or by a team of professionals that are qualified providers who are trained in crisis intervention.

Mobile Crisis Intervention includes the following activities when performed to resolve the immediate crisis:

- Assessment;
- Crisis counseling including individual and family counseling;
- Clinical consultation and coordination with other health care providers;
- Psychopharmacological management, including availability of on-site prescriber;
- Identification and inclusion of professional and natural supports (e.g., therapist, neighbors, relatives) who can assist in stabilizing the situation and offer ongoing support;
- Development of a risk management/safety plan. In cases where the youth does not already have such a plan, Mobile Crisis Intervention creates a risk management/safety plan in concert with the parent(s)/guardian(s)/caregiver(s) and any existing service providers (e.g., ICC, In-Home Therapy Services, outpatient therapist); and
- Referral to other services as needed.

Settings: Mobile Crisis Intervention is provided where the child is located.

Providers: Components of Mobile Crises Crisis Intervention are provided by practitioners, as described below. Practitioners must be working under an employment or contractual arrangement with one of the following: outpatient hospitals, community health centers, mental health centers and other clinics.

- **Assessment** - LICSWs, LCSWs, LMFTs, LMHCs, licensed psychologists, master's level counselors, marriage and family therapy interns, mental health counselor interns, psychiatric nurse mental health clinical specialists, psychiatric nurse mental health clinical specialist trainee, psychiatric nurses, psychiatrists, psychiatry residents, psychology interns, social work interns
- **Crisis counseling including individual and family counseling** - LICSWs, LCSWs, LMFTs, LMHCs, licensed psychologists, master's level counselors, marriage and family therapy interns, mental health counselor interns, psychiatric nurse mental health clinical specialists, psychiatric nurse mental health clinical specialist trainee, psychiatric nurses, psychiatrists, psychiatry residents, psychology interns, social work interns, bachelor-level counselors/paraprofessionals, LADC Is
- **Clinical consultation and coordination with other health care providers** - LICSWs, LCSWs, LMFTs, LMHCs, licensed psychologists, master's level counselors, marriage and family therapy interns, mental health counselor interns, psychiatric nurse mental health clinical specialists, psychiatric nurse mental health clinical specialist trainee, psychiatric nurses, psychiatrists, psychiatry residents, psychology interns, social work interns, bachelor-level counselors/paraprofessionals, LADC Is
- **Psychopharmacological management** - Psychiatric nurse mental health clinical specialists, psychiatric nurse mental health clinical specialist trainee, board-certified or board-eligible child psychiatrists, psychiatry residents.
- **Identification and inclusion of professional and natural supports (e.g., therapist, neighbors, relatives) who can assist in stabilizing the situation and offer ongoing support** - LICSWs, LCSWs, LMFTs, LMHCs, licensed psychologists, master's level counselors, marriage and family therapy interns, mental health counselor interns, psychiatric nurse mental health clinical specialists, psychiatric nurse mental health clinical specialist trainee, psychiatric nurses, psychiatrists, psychiatry residents, psychology interns, social work interns, associate-level counselors/paraprofessionals, bachelor-level counselors/paraprofessionals, LADC Is, LADC IIs, LADC IIIs, LSWs, and LSWAs,
- **Development of a risk management/safety plan** -LICSWs, LCSWs, LMFTs, LMHCs, licensed psychologists, master's level counselors, marriage and family therapy interns, mental health counselor interns, psychiatric nurse mental health clinical specialists, psychiatric nurse mental health clinical specialist trainee, psychiatric nurses, psychiatrists, psychiatry residents, psychology interns, social work interns

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- **Referral to other services as needed:** LICSWs, LCSWs, LMFTs, LMHCs, licensed psychologists, master's level counselors, marriage and family therapy interns, mental health counselor interns, psychiatric nurse mental health clinical specialists, psychiatric nurse mental health clinical specialist trainee, psychiatric nurses, psychiatrists, psychiatry residents, psychology interns, social work interns, associate-level counselors/paraprofessionals, bachelor-level counselors/paraprofessionals, CADACs, CADAC IIs, LADC Is, LADC IIs, LADC IIIs, LSWs, and LSWAs.

b. **In-Home Behavioral Services:** (Services described in this section are effective October 1, 2009.)

This service provides for the development of a highly specific behavior plan; supervision and coordination of interventions; and training other interveners to address specific behavioral objectives or performance goals in order to treat challenging behaviors that interfere with the youth's successful functioning. An In-Home Behavioral service includes two components: behavior management therapy and behavior management monitoring. It is delivered by one or more members of a team of qualified providers consisting of professional and paraprofessional staff.

1. Behavior management therapy: Behavior management therapy includes activities that are required to develop, implement, monitor and update a behavior plan, including overseeing activities of the behavior management monitor. Behavior management therapy is performed by a licensed clinician who meets the qualifications of a Behavior management therapist as described in the provider qualifications section below.

Behavior management therapy includes the following:

- Functional behavioral assessment;
- Development of a focused behavior plan that identifies specific behavioral and measurable objectives or performance goals and interventions that are designed to diminish, extinguish, or improve specific behaviors related to a youth's behavioral health (mental health or substance abuse) condition(s);
- Development or revision of a youth's risk management/safety plan to address the specific behavioral needs of the youth;
- Counseling the parent(s)/guardian(s)/caregiver(s) on how to implement strategies identified in the behavior plan;
- Working closely with the behavior management monitor to ensure the behavior plans and risk management/safety plan are implemented as developed, and to make any necessary adjustments to the plans;
- Clinical consultation and coordination with other behavioral health (mental health or substance abuse) care providers; and
- Referral to other services as needed.

2. Behavior management monitoring. This service includes activities related to the implementation of the behavior plan and a risk management/safety plan as needed. Behavioral management monitoring also includes monitoring the youth's behavior, reinforcing implementation of the behavior plan by the parent(s)/guardian(s)/caregiver(s), and reporting to the behavior management therapist on implementation of the behavior plan and progress toward behavioral objectives or performance goals.

   Behavioral management monitoring is performed by a paraprofessional who meets the qualifications of a behavior management monitor as described in the definitions section below.

   Behavior management monitoring includes the following:

   - Monitoring the youth's progress on implementation of the goals of the behavior plan developed by the behavior management therapist;
   - Assisting the youth in implementing the goals of the behavior plan developed by the behavioral management therapist;
   - Providing guidance to the parent(s)/guardian(s)/caregiver(s) in implementing the plan; and
   - Working closely with the behavior management therapist to ensure the behavior plans and risk management/safety plan are implemented as developed.

Settings: In-Home Behavioral Services may be provided in any setting where the child is naturally located including, but not limited to, the home (including foster homes and therapeutic foster homes), schools, child care centers, and other community settings.

Providers The following practitioners may provide any component of behavior management therapy as described above: Developmental-behavioral pediatricians, developmental-behavioral pediatric fellows, LICSWs, LCSWs, LMFTs, LMHCs, licensed psychologists, master's level counselors, marriage and family therapy interns, mental health counselor interns, psychiatric nurse mental health clinical specialists, psychiatric nurse mental health clinical specialist trainee, psychiatric nurses, psychiatrists, psychiatry residents, psychology interns and social work interns. Behavior management monitors may provide any component of behavior management monitoring as described above.

Qualified Practitioners of behavior management therapy also must have two years relevant experience providing direct services to youth and families who require behavior management to address behavioral health (mental health or substance abuse) needs; course work and training in conducting functional behavioral assessments, and selecting, implementing and evaluating intervention strategies; supervised experience conducting functional behavioral assessments and designing, implementing, and monitoring behavior analysis programs for clients and other qualifications established by the state. Practitioners must be working under an employment or contractual agreement with one of the following: outpatient hospitals, community health centers, mental health centers, other clinics, and private agencies certified by the Commonwealth.

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c. **In-Home Therapy Services:** (Services described in this section are effective November 1, 2009.)

This service provides for the development of an individualized treatment plan; supervision and coordination of interventions for the purpose of treating the youth's mental health and substance abuse needs. The intervention is designed to enhance and improve the family's capacity to improve the youth's functioning in the home and community and may prevent the need for the youth's admission to an inpatient hospital, psychiatric residential treatment facility or other treatment setting. This service is delivered by one or more members of a team of qualified providers consisting of professional and paraprofessional staff, offering a combination of medically necessary in home therapy and therapeutic training and support.

1.

In Home Therapy: In-home therapy is a structured, consistent, strength-based therapeutic relationship between a licensed clinician and the youth and family. The licensed clinician, in collaboration with the family and youth, develops an individualized treatment plan and, using established psychotherapeutic techniques, and intensive family therapy works with the entire family or a subset of the family to implement focused structural or strategic interventions to advance therapeutic goals. In addition, the clinician assists in identifying and utilizing community resources and develops and maintains natural supports for the youth and parent(s)/guardian(s)/caregiver(s) in order to promote sustainability of treatment gains. Phone contact and consultation are provided as part of the intervention. In-Home therapy is performed by a licensed clinician who meets the qualifications of an in-home therapist as described section below.

In-Home Therapy includes the following:

- Assessments;
- Development of an individualized treatment plan by the qualified practitioner in partnership with the youth and parent(s)/guardian(s)/caregiver(s) and, with required consent, in consultation with other providers that is designed to address the youth's mental health or substance abuse condition;
- Ongoing monitoring and modification of the individualized treatment plan as indicated;
- Review/development of a risk management/safety plan;
- Phone and face-to-face consultation with other providers, individuals and entities who may impact the youth's treatment plan;
- Family counseling through which the licensed clinician works with the entire family, or a subset of the family, to advance therapeutic goals; and
- Referral to other services as needed.

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2. Therapeutic training and support is a service provided by an associate-level or bachelor-level paraprofessional working under the supervision of a clinician to support implementation of the in-home therapists treatment plan in order to achieve the goals of the that plan. The paraprofessional assists a licensed clinician in implementing the therapeutic objectives of the individualized treatment plan. Phone contact and consultation may be provided as part of the intervention.

Therapeutic training and support includes the following:

- Providing guidance to the youth and parent(s)/guardian(s)/caregiver(s) in implementing the treatment plan;
- Providing skills training for youth and parent(s)/guardian(s)/caregiver(s) in support of the treatment plan goals; and
- Monitoring the youth's and parent(s)/guardian(s)/caregiver(s) progress on achieving treatment plan goals and communicating regularly with the clinician so that the treatment plan can be modified and necessary.

Settings: In home therapy services may be provided in any setting where the child is naturally located including, but not limited to, the home (including foster homes and therapeutic foster homes), schools, child care centers, and other community settings.

Providers: The following practitioners may provide any component of in-home therapy as described above: In-home therapy services are delivered by the following practitioners: LICSW, LCSW, LMFT, LMHC, Licensed psychologist, Master's level counselors, marriage and family therapy interns, mental health counselor interns, psychiatric nurse mental health clinical specialists, psychiatric nurse mental health clinic specialists trainee, psychiatric nurses, psychiatrists, psychiatry residents, psychology interns. The following practitioners may provide any component of therapeutic training and support as described above: Associate-level counselors / paraprofessionals, bachelor-level counselors / paraprofessionals. Practitioners must be working under an employment or contractual arrangement with one of the following outpatient hospitals, community health centers, mental health centers, other clinics and private agencies certified by the Commonwealth.

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d. **Therapeutic Mentoring Services**: (Services described in this section are effective October 1, 2009.)

Therapeutic mentoring services are structured, one-to-one, strength-based services that are designed to help ameliorate behavioral health (mental health or substance abuse) related conditions which prevent the youth from appropriate social functioning. These services must be delivered according to an individualized treatment plan developed by either an outpatient clinician, an in-home therapy clinician or, for youth enrolled in Intensive Care Coordination, a care planning team. Progress toward meeting the identified goal(s) must be documented and reported regularly to the provider responsible for the youth's treatment plan.

The therapeutic mentor does not provide social, educational, artistic, athletic, recreational or vocational services.

Settings: Therapeutic mentoring services are provided to youth in any setting where the youth resides, such as the home (including foster homes and therapeutic foster homes), school, child care centers and other community settings.

Providers: Therapeutic mentoring services are delivered by therapeutic mentors. Practitioners must be working under an employment or contractual arrangement with on of the following: outpatient hospitals, community health centers, mental health centers, other clinics, and private agencies certified by the Commonwealth. Providers of therapeutic mentoring utilize therapeutic mentors to provide these services.

e **Family Support and Training:** (Services described in this section are effective July 1, 2009.)

A family support and training partner addresses goals established in an individualized treatment plan in order to resolve or ameliorate the youth's mental health, behavioral and emotional needs through enhancing the capacity of the parent(s)/guardians/caregivers) to implement activities required to meet the goals of the plan. Family support and training is a skill-building support and not a form of therapy or counseling. The individualized treatment plan must be developed by either an outpatient clinician, an In-home therapy clinician or, for youth enrolled in Intensive Care Coordination, a care planning team. These services include the following when they are relevant to the goals in the youth's individualized care plan:

- providing guidance to parent(s)/guardians(s)/caregiver(s) on navigating systems that support youth with mental health, behavioral and emotional needs, such as working effectively with state agency case managers, school system officials, provider agency staff and clinicians;
- fostering empowerment of parent(s)/guardian(s)/caregiver(s) by offering supportive guidance for parents of youth with mental health needs and encouraging participation in peer/parent support and self-help groups;
- providing guidance to the parent(s)/guardian(s)/caregiver(s) how to find, access and use formal and informal community-based resources (e.g., after-school programs, food assistance, housing resources, youth-serving systems, etc.); and
- modeling these skills for parent(s)/guardians(s)/caregiver(s).

Family support and training services do not include respite care or child care services.

Settings: Family support and training services are provided in any setting where the youth resides, such as the home (including foster homes and therapeutic foster homes), and other community settings.

Providers: Family support and training services are delivered by a family support and training partner. A family support and training partner must be working under an employment or contractual arrangement with one of the following: outpatient hospitals, community health centers, mental health centers, other clinics and private agencies certified by the Commonwealth.

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Definitions:

Associate-level counselors/paraprofessional
Associate-level counselors/paraprofessionals must have an associate's degree in a human services field from an accredited academic institution and one (1) year of relevant experience working with families or youth. If the associate's degree is not in a human services field, additional life or work experience may be considered in place of the human services degree. Associate-level counselors/paraprofessionals are supervised by a LICSW, LMFT, LMHC, LCSW, LADC I, Psychologist, Psychiatric Nurse or Nurse Clinical Specialist.

Bachelor-level counselors/paraprofessional
Bachelor-level counselors/paraprofessionals must have a bachelor's degree in a human services field from an accredited academic institution and one year of relevant experience working with families or youth. If the bachelor's degree is not in a human services field, additional life or work experience may be considered in place of the human services degree. Bachelor-level counselors/paraprofessionals are supervised by a LICSW, LMFT, LMHC, LCSW, LADC I, Psychologist, Psychiatric Nurse or Nurse Clinical Specialist.

Behavior Management Monitor
Behavioral management monitors must have a bachelor's degree in a human services field from an accredited university and one (1) year of relevant experience working with families, children or adolescents who require behavior management, or an associate's degree and a minimum of two (2) years of relevant experience working with families, children or adolescents who require behavior management. Behavior management monitors are supervised by a LICSW, LMFT, LMHC, LCSW, LADC I, Psychologist, Psychiatric Nurse or Nurse Clinical Specialist..

Certified Alcoholism/Drug Abuse Counselor (CADAC)
Certified by the private Massachusetts Board of Substance Abuse Counselor Certification (MBSACC). CADAC certification requires a combination of either a Master's degree in a "behavioral science area" and 2,000 hours of supervised experience or a Bachelor's degree in a behavioral science area and 4,000 hours of supervised experience or an Associates' degree in a behavioral science area and 6,000 hours of supervised experience. Certification also requires documentation of having received a minimum of 270 clock hours of continuing education related to the five domains for alcohol and other drug abuse. Consistent with applicable state licensure requirements, certified alcoholism/drug abuse counselors are supervised by a LICSW, LMFT, LMHC, LCSW, LADC I, Psychologist, Psychiatric Nurse or Nurse Clinical Specialist.

Certified Alcoholism/Drug Abuse Counselor II (CADAC II)
Certified by the private Massachusetts Board of Substance Abuse Counselor Certification (MBSACC). CADAC II certification requires a master's degree (or higher) from a regionally accredited academic institution in a human services behavioral sciences field with a clinical application (i.e., practicum); 2,000 hours of supervised experience and documentation of completion of 300-hour practicum. Consistent with applicable State licensure requirements, certified alcoholism/drug abuse counselor IIs are supervised by a LICSW, LMFT, LMHC, LCSW, LADC I, Psychologist, Psychiatric Nurse or Nurse Clinical Specialist..

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Developmental-Behavioral Pediatrician
A person with a current, valid, unrestricted license to practice medicine issued by the Massachusetts Board of Registration in Medicine, who is board-certified in Pediatrics and either board-eligible or board-certified in Developmental-Behavioral Pediatrics

Developmental-Behavioral Pediatric Fellow
A person with a current, valid, unrestricted license to practice medicine issued by the Massachusetts Board of Registration in Medicine, who is board-certified in Pediatrics and enrolled in a training program in Developmental-Behavioral Pediatrics accredited by the Accreditation Council for Graduate Medical Education (ACGME). Services provided by the Developmental-Behavioral Pediatric Fellow must be provided in a setting approved for training by the sponsoring training institution, under supervision of a board certified or eligible Developmental-Behavioral Pediatrician, consistent with applicable state licensure requirements.

Family Support and Training Partner
A family support and training worker must have experience as a caregiver of a youth with special needs, preferably youth with behavioral health needs, experience in navigating any of the youth and family-serving systems and teaching family members who are involved with the youth and family serving systems, and either: a bachelor's degree in a human services field from an accredited academic institution, or an associate's degree in a human services field from an accredited academic institution and one (1) year of experience working with children/adolescents/transition-age youth and families, or a high school diploma or General Education Development (GED) and a minimum of two (2) years of experience working with children/adolescents/transition age youth and families. If the bachelor's or associate's degree is not in a human services field, additional life or work experience may be considered in place of the human services degree. Family partners are supervised by a LICSW, LMFT, LMHC, LCSW, LADC I, Psychologist, Psychiatric Nurse or Nurse Clinical Specialist.

Licensed Alcohol and Drug Counselor I – LADC I
A person licensed by the Department of Public Health to conduct an independent practice of alcohol and drug counseling, and to provide supervision to other alcohol and drug counselors, as defined in 105 CMR 168.000. These requirements include: a master's or doctoral degree in behavioral sciences, a minimum of 270 hours of training in substance abuse counseling, 300 hours of supervised practical training and 6,000 hours of supervised alcohol and drug counseling work experience.

Licensed Alcohol and Drug Counselor II – LADC II
A person licensed by the Department of Public Health to practice alcohol and drug counseling under clinical supervision, as defined in 105 CMR 168.000. These requirements include: a high school diploma or equivalent, a minimum of 270 hours of training in substance abuse counseling, 300 hours of supervised practical training and 6,000 hours of supervised alcohol and drug counseling work experience (4,000 if applicant holds a bachelor's degree). Consistent with applicable state licensure requirements, LADC IIs are supervised by a LICSW, LMFT, LMHC, LCSW, LADC I, Psychologist, Psychiatric Nurse or Nurse Clinical Specialist.

Licensed Alcohol and Drug Counselor Assistant – LADC III
A person licensed by the Department of Public Health to provide recovery based services under direct clinical and administrative supervision, as defined in 105 CMR 168.000. These requirements include a high school diploma or equivalent, 2,000 hours of work experience in the alcohol or drug abuse field and a minimum of 50 hours of training in substance abuse counseling. Consistent with applicable state licensure requirements LACD IIIs are supervised by a LICSW, LMFT, LMHC, LCSW, LADC I, Psychologist, Psychiatric Nurse or Nurse Clinical Specialist.

Licensed Independent Clinical Social Worker (LICSW)
A person with a current, valid, unrestricted license to practice as an LICSW, issued by the Massachusetts Board of Registration of Social Workers. These requirements include: master's or doctoral degree in Social Work from a program accredited by the Council on Social Work Education and two years supervised experience.

Licensed Clinical Social Worker (LCSW)
A person with a current, valid, unrestricted license to practice as an LCSW, issued by the Massachusetts Board of Registration of Social Workers. These requirements include: master's or doctoral degree in Social Work from a program accredited by the Council on Social Work Education. Consistent with applicable state licensure requirements, LCSWs are supervised by a LICSW, LMFT, LMHC, LCSW, LADC I, Psychologist, Psychiatric Nurse or Nurse Clinical Specialist.

Licensed Social Worker (LSW)
A person with a current, valid, unrestricted license to practice as an LSW, issued by the Massachusetts Board of Registration of Social Workers. These requirements include: a bachelor's degree in Social Work from a program accredited by the Council on Social Work Education or a bachelor's degree in any subject and 3500 hours of supervised experience providing social work services. Consistent with applicable state licensure requirements, LSWs are supervised by a LICSW, LMFT, LMHC, LCSW, LADC I, Psychologist, Psychiatric Nurse or Nurse Clinical Specialist.

Licensed Social Work Associate (LSWA)
A person with a current, valid, unrestricted license to practice as an LSWA, issued by the Massachusetts Board of Registration of Social Workers. These requirements include: an associate degree, or at least sixty credit hours of college education, in the fields of social work, psychology, counseling or other similar human services field, from an accredited college or university; or a baccalaureate degree in any field from an accredited college or university; or a minimum of one thousand (1000) hours of education in social work theory and methods in courses or programs approved by the Board of Registration of Social Workers. Consistent with applicable state licensure requirements, LSWAs are supervised by a LICSW, LMFT, LMHC, LCSW, LADC I, Psychologist, Psychiatric Nurse or Nurse Clinical Specialist.

Licensed Marriage and Family Therapist (LMFT)
A person with a current, valid, unrestricted license to practice as a LMFT, issued by the Massachusetts Board of Registration of Allied Mental Health Professionals. These requirements include: a master's degree in the mental health field (including, but not restricted to, counseling, family therapy, psychology, etc.) from an accredited college or university and two years supervised experience.

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Licensed Mental Health Counselor (LMHC)
A person with a current, valid, unrestricted license to practice as a LMHC, issued by the Massachusetts Board of Registration of Allied Mental Health Professionals. These requirements include: a master's degree in the mental health field (including, but not restricted to, counseling, family therapy, psychology, etc.) from an accredited college or university and two years supervised experience.

Licensed Psychologist
A person with current, valid, unrestricted license to practice psychology issued by the Massachusetts Board of Registration in Psychology. These requirements include a doctoral degree from a program accredited by the American Psychological Association and two years supervised experience

Marriage and Family Therapy Intern
The marriage and family therapy intern must be a second-year, clinical-track student in a structured field placement that is a component of a master's in marriage and family therapy or a master's in a counseling program that is fully accepted by the Board of Allied Mental Health and Human Services Profession. The marriage and family therapy intern must provide services under the direct supervision of a LICSW, LMFT, LMHC, LCSW, LADC I, Psychologist, Psychiatric Nurse, or Nurse Clinical Specialist consistent with applicable state licensure requirements.

Master's Level Counselor
A person with a master's or doctoral degree in a mental health field (including, but not restricted to, counseling, family therapy, social work, psychology, etc.) from an accredited college or university who is supervised by a LICSW, LMFT, LMHC, LCSW, LADC I, Psychologist, Psychiatric Nurse, or Nurse Clinical Specialist.

Mental Health Counselor Intern
The Mental Health Counselor Intern must be a second-year, clinical-track student in a structured field placement that is a component of a master's in mental health counseling or a master's in a counseling psychology program that is fully accepted by the Board of Allied Mental Health and Human Services Profession Consistent with applicable state licensure requirements, the Mental Heath Counselor Intern provides services under the supervision of a LICSW, LMFT, LMHC, LCSW, LADC I, Psychologist, Psychiatric Nurse or Nurse Clinical Specialist.

Psychiatric Nurse
A person with a current, valid, unrestricted license to practice as a registered nurse issued by the Board of Registration in Nursing, a master's degree in the mental health fields and one (1) year of experience delivering mental health services to families and youth. Consistent with applicable state licensure requirements, the Psychiatric Nurse provides services under the supervision of a LICSW, LMFT, LMHC, LCSW, LADC I, Psychologist, Psychiatric Nurse or Nurse Clinical Specialist.

Psychiatric Nurse Mental Health Clinical Specialist
A person with a current, valid, unrestricted license to practice as a registered nurse issued by the Massachusetts Board of Registration in Nursing and current, valid, unrestricted authorization by the Massachusetts Board of Registration in Nursing to practice as a Psychiatric Nurse Mental Health Clinical Specialist.

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Psychiatric Nurse Mental Health Clinical Specialist Trainee
A person with a current, valid, unrestricted license to practice as a registered nurse issued by the Massachusetts Board of Registration in Nursing who is enrolled in a Psychiatric Nurse Mental Health Clinical Specialist training program recognized by the Massachusetts Board of Registration in Nursing. Consistent with applicable state licensure requirements, services provided by the Psychiatric Nurse Mental Health Clinical Specialist trainee are provided under supervision of a Psychiatric Nurse Mental Health Clinical Specialist.

Psychiatric Resident
A person with a current, valid, full or limited license to practice medicine issued by the Massachusetts Board of Registration in Medicine, who is enrolled in an Accreditation Council for Graduate Medical Education (ACGME)-accredited residency training program in either adult psychiatry or child and adolescent psychiatry. Services provided by the Psychiatric intern are provided in a setting approved for residency training by the sponsoring training institution, under supervision of a board certified or eligible child psychiatrist, consistent with applicable state licensure requirements.

Psychiatrist
A person with a current, valid, unrestricted license to practice medicine issued by the Massachusetts Board of Registration in Medicine. Psychiatrists treating youth ages 0 to 19 shall be board-certified or board-eligible in child and adolescent psychiatry. Psychiatrists treating youth ages 19 to 21 shall be trained in adult psychiatry.

Psychology Intern
The psychology intern must be admitted to doctoral candidacy in a structured clinical, or counseling, American Psychological Association (APA)-approved doctoral program. Consistent with state licensure requirements, services provided by a psychology intern are provided under the direct supervision of a licensed psychologist.

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Social Work Intern
The Social Work Intern must be a second-year, clinical-track student in a structured field practicum that is a component of an MSW program that is fully accredited by the Council on Social Work Education. Consistent with applicable state licensure requirements, services are provided under the direct supervision of a LICSW, LMFT, LMHC, LCSW, LADC I, Psychologist, Psychiatric Nurse or Nurse Clinical Specialist.

Therapeutic Mentors
Therapeutic mentors must be 21 years of age or older and have either: a bachelor's degree in a human service field from an accredited academic institution and one (1) year of relevant experience working with children/adolescents/transition age youth; or, an associate's degree in a human services field from an accredited academic institution and one (1) year of relevant experience working with children/adolescents/transition age youth; or, a high school diploma or General Educational Development (GED) and a minimum of two (2) years of experience working with children/adolescents/transition age youth. If the bachelor's or associate's degree is not in a human services field, additional life or work experience may be considered in place of the human services degree. Therapeutic mentors must be supervised by a LICSW, LMFT, LMHC, LCSW, LADC I, Psychologist, Psychiatric Nurse or Nurse Clinical Specialist.

Item 5: Physician's Services

See Supplement to Attachment 3.1-A, P.1, Item 1, #1.

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Item 2.a: Outpatient Hospital Services

See **Supplement to Attachment 3.1-A**, page 1, Item 1, #1 and #4.

Item 4.a: Nursing Facilities Services

If a utilization review team recommends that a recipient in a multi-level long-term-care facility be changed to a lower level of care, the facility is responsible for relocating a recipient to the recommended level of care within the facility. The recipient has the right to appeal the recommendation.

Item 4b: Early and Periodic Screening, Diagnostic and Treatment services for individuals under 21 years of age, and treatment of conditions found.

In addition to all other medically necessary services covered for individuals under age 21, the following services are covered as Rehabilitation services as defined in 42 USC 1396d (a) (13). These services are provided to, or directed exclusively toward the treatment of, the Medicaid eligible individual:

a. **Mobile Crisis Intervention** (Services described in this section are effective July 1, 2009.)
Mobile Crisis Intervention provides a short term service that is mobile, on-site, face-to-face therapeutic response to a youth experiencing a behavioral health (mental health or substance abuse) crisis for the purpose of identifying, assessing, treating, and stabilizing the situation and reducing the immediate risk of danger to the youth or others consistent with the youth's risk management/safety plan, if any. Services are available 24 hours a day, 7 days a week. Phone contact and consultation may be provided as part of the intervention. Mobile crisis services may be provided by a single crisis worker or by a team of professionals that are qualified providers who are trained in crisis intervention.

Mobile Crisis Intervention includes the following activities when performed to resolve the immediate crisis:

- Assessment;
- Crisis counseling including individual and family counseling;
- Clinical consultation and coordination with other health care providers;
- Psychopharmacological management, including availability of on-site prescriber;
- Identification and inclusion of professional and natural supports (e.g., therapist, neighbors, relatives) who can assist in stabilizing the situation and offer ongoing support;
- Development of a risk management/safety plan. In cases where the youth does not already have such a plan, Mobile Crisis Intervention creates a risk management/safety plan in concert with the parent(s)/guardian(s)/caregiver(s) and any existing service providers (e.g., ICC, In-Home Therapy Services, outpatient therapist); and
- Referral to other services as needed.

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Settings: Mobile Crisis Intervention is provided where the child is located.

Providers: Components of Mobile Crises Crisis Intervention are provided by practitioners, as described below. Practitioners must be working under an employment or contractual arrangement with one of the following: outpatient hospitals, community health centers, mental health centers and other clinics.

- **Assessment** - LICSWs, LCSWs, LMFTs, LMHCs, licensed psychologists, master's level counselors, marriage and family therapy interns, mental health counselor interns, psychiatric nurse mental health clinical specialists, psychiatric nurse mental health clinical specialist trainee, psychiatric nurses, psychiatrists, psychiatry residents, psychology interns, social work interns
- **Crisis counseling including individual and family counseling** - LICSWs, LCSWs, LMFTs, LMHCs, licensed psychologists, master's level counselors, marriage and family therapy interns, mental health counselor interns, psychiatric nurse mental health clinical specialists, psychiatric nurse mental health clinical specialist trainee, psychiatric nurses, psychiatrists, psychiatry residents, psychology interns, social work interns, bachelor-level counselors/paraprofessionals, LADC Is
- **Clinical consultation and coordination with other health care providers** - LICSWs, LCSWs, LMFTs, LMHCs, licensed psychologists, master's level counselors, marriage and family therapy interns, mental health counselor interns, psychiatric nurse mental health clinical specialists, psychiatric nurse mental health clinical specialist trainee, psychiatric nurses, psychiatrists, psychiatry residents, psychology interns, social work interns, bachelor-level counselors/paraprofessionals, LADC Is
- **Psychopharmacological management** - Psychiatric nurse mental health clinical specialists, psychiatric nurse mental health clinical specialist trainee, board-certified or board-eligible child psychiatrists, psychiatry residents.
- **Identification and inclusion of professional and natural supports (e.g., therapist, neighbors, relatives) who can assist in stabilizing the situation and offer ongoing support** - LICSWs, LCSWs, LMFTs, LMHCs, licensed psychologists, master's level counselors, marriage and family therapy interns, mental health counselor interns, psychiatric nurse mental health clinical specialists, psychiatric nurse mental health clinical specialist trainee, psychiatric nurses, psychiatrists, psychiatry residents, psychology interns, social work interns, associate-level counselors/paraprofessionals, bachelor-level counselors/paraprofessionals, LADC Is, LADC IIs, LADC IIIs, LSWs, and LSWAs.
- **Development of a risk management/safety plan** -LICSWs, LCSWs, LMFTs, LMHCs, licensed psychologists, master's level counselors, marriage and family therapy interns, mental health counselor interns, psychiatric nurse mental health clinical specialists, psychiatric nurse mental health clinical specialist trainee, psychiatric nurses, psychiatrists, psychiatry residents, psychology interns, social work interns

- **Referral to other services as needed:** LICSWs, LCSWs, LMFTs, LMHCs, licensed psychologists, master's level counselors, marriage and family therapy interns, mental health counselor interns, psychiatric nurse mental health clinical specialists, psychiatric nurse mental health clinical specialist trainee, psychiatric nurses, psychiatrists, psychiatry residents, psychology interns, social work interns, associate-level counselors/paraprofessionals, bachelor-level counselors/paraprofessionals, CADACs, CADAC IIs, LADC Is, LADC IIs, LADC IIIs, LSWs, and LSWAs.

b. **In-Home Behavioral Services:** (Services described in this section are effective October 1, 2009.)

This service provides for the development of a highly specific behavior plan; supervision and coordination of interventions; and training other interveners to address specific behavioral objectives or performance goals in order to treat challenging behaviors that interfere with the youth's successful functioning. An In-Home Behavioral service includes two components: behavior management therapy and behavior management monitoring. It is delivered by one or more members of a team of qualified providers consisting of professional and paraprofessional staff.

1. Behavior management therapy: Behavior management therapy includes activities that are required to develop, implement, monitor and update a behavior plan, including overseeing activities of the behavior management monitor. Behavior management therapy is performed by a licensed clinician who meets the qualifications of a Behavior management therapist as described in the provider qualifications section below.

Behavior management therapy includes the following:

- Functional behavioral assessment;
- Development of a focused behavior plan that identifies specific behavioral and measurable objectives or performance goals and interventions that are designed to diminish, extinguish, or improve specific behaviors related to a youth's behavioral health (mental health or substance abuse) condition(s);
- Development or revision of a youth's risk management/safety plan to address the specific behavioral needs of the youth;
- Counseling the parent(s)/guardian(s)/caregiver(s) on how to implement strategies identified in the behavior plan;
- Working closely with the behavior management monitor to ensure the behavior plans and risk management/safety plan are implemented as developed, and to make any necessary adjustments to the plans;
- Clinical consultation and coordination with other behavioral health (mental health or substance abuse) care providers; and
- Referral to other services as needed.

2. Behavior management monitoring. This service includes activities related to the implementation of the behavior plan and a risk management/safety plan as needed. Behavioral management monitoring also includes monitoring the youth's behavior, reinforcing implementation of the behavior plan by the parent(s)/guardian(s)/caregiver(s), and reporting to the behavior management therapist on implementation of the behavior plan and progress toward behavioral objectives or performance goals.

   Behavioral management monitoring is performed by a paraprofessional who meets the qualifications of a behavior management monitor as described in the definitions section below.

   Behavior management monitoring includes the following:

   - Monitoring the youth's progress on implementation of the goals of the behavior plan developed by the behavior management therapist;
   - Assisting the youth in implementing the goals of the behavior plan developed by the behavioral management therapist;
   - Providing guidance to the parent(s)/guardian(s)/caregiver(s) in implementing the plan; and
   - Working closely with the behavior management therapist to ensure the behavior plans and risk management/safety plan are implemented as developed.

Settings: In-Home Behavioral Services may be provided in any setting where the child is naturally located including, but not limited to, the home (including foster homes and therapeutic foster homes), schools, child care centers, and other community settings.

Providers: The following practitioners may provide any component of behavior management therapy as described above: Developmental-behavioral pediatricians, developmental-behavioral pediatric fellows, LICSWs, LCSWs, LMFTs, LMHCs, licensed psychologists, master's level counselors, marriage and family therapy interns, mental health counselor interns, psychiatric nurse mental health clinical specialists, psychiatric nurse mental health clinical specialist trainee, psychiatric nurses, psychiatrists, psychiatry residents, psychology interns and social work interns. Behavior management monitors may provide any component of behavior management monitoring as described above.

Qualified Practitioners of behavior management therapy also must have two years relevant experience providing direct services to youth and families who require behavior management to address behavioral health (mental health or substance abuse) needs; course work and training in conducting functional behavioral assessments, and selecting, implementing and evaluating intervention strategies; supervised experience conducting functional behavioral assessments and designing, implementing, and monitoring behavior analysis programs for clients and other qualifications established by the state. Practitioners must be working under an employment or contractual agreement with one of the following: outpatient hospitals, community health centers, mental health centers, other clinics, and private agencies certified by the Commonwealth.

c. **In-Home Therapy Services:** (Services described in this section are effective November 1, 2009.)

This service provides for the development of an individualized treatment plan; supervision and coordination of interventions for the purpose of treating the youth's mental health and substance abuse needs. The intervention is designed to enhance and improve the family's capacity to improve the youth's functioning in the home and community and may prevent the need for the youth's admission to an inpatient hospital, psychiatric residential treatment facility or other treatment setting. This service is delivered by one or more members of a team of qualified providers consisting of professional and paraprofessional staff, offering a combination of medically necessary in home therapy and therapeutic training and support.

1.

In-Home Therapy: In-home therapy is a structured, consistent, strength-based therapeutic relationship between a licensed clinician and the youth and family. The licensed clinician, in collaboration with the family and youth, develops an individualized treatment plan and, using established psychotherapeutic techniques, and intensive family therapy works with the entire family or a subset of the family to implement focused structural or strategic interventions to advance therapeutic goals. In addition, the clinician assists in identifying and utilizing community resources and develops and maintains natural supports for the youth and parent(s)/guardian(s)/caregiver(s) in order to promote sustainability of treatment gains. Phone contact and consultation are provided as part of the intervention. In-Home therapy is performed by a licensed clinician who meets the qualifications of an in-home therapist as described section below.

In-Home Therapy includes the following:

- Assessments;
- Development of an individualized treatment plan by the qualified practitioner in partnership with the youth and parent(s)/guardian(s)/caregiver(s) and, with required consent, in consultation with other providers that is designed to address the youth's mental health or substance abuse condition;
- Ongoing monitoring and modification of the individualized treatment plan as indicated;
- Review/development of a risk management/safety plan;
- Phone and face-to-face consultation with other providers, individuals and entities who may impact the youth's treatment plan;
- Family counseling through which the licensed clinician works with the entire family, or a subset of the family, to advance therapeutic goals; and
- Referral to other services as needed.

2. Therapeutic training and support is a service provided by an associate-level or bachelor-level paraprofessional working under the supervision of a clinician to support implementation of the in-home therapists treatment plan in order to achieve the goals of the that plan. The paraprofessional assists a licensed clinician in implementing the therapeutic objectives of the individualized treatment plan. Phone contact and consultation may be provided as part of the intervention.

Therapeutic training and support includes the following:

- Providing guidance to the youth and parent(s)/guardian(s)/caregiver(s) in implementing the treatment plan;
- Providing skills training for youth and parent(s)/guardian(s)/caregiver(s) in support of the treatment plan goals; and
- Monitoring the youth's and parent(s)/guardian(s)/caregiver(s) progress on achieving treatment plan goals and communicating regularly with the clinician so that the treatment plan can be modified and necessary.

Settings: In home therapy services may be provided in any setting where the child is naturally located including, but not limited to, the home (including foster homes and therapeutic foster homes), schools, child care centers, and other community settings.

Providers: The following practitioners may provide any component of in-home therapy as described above: In-home therapy services are delivered by the following practitioners: LICSW, LCSW, LMFT, LMHC, Licensed psychologist, Master's level counselors, marriage and family therapy interns, mental health counselor interns, psychiatric nurse mental health clinical specialists, psychiatric nurse mental health clinic specialists trainee, psychiatric nurses, psychiatrists, psychiatry residents, psychology interns. The following practitioners may provide any component of therapeutic training and support as described above: Associate-level counselors / paraprofessionals, bachelor-level counselors / paraprofessionals. Practitioners must be working under an employment or contractual arrangement with one of the following outpatient hospitals, community health centers, mental health centers, other clinics and private agencies certified by the Commonwealth.

d. **Therapeutic Mentoring Services:** (Services described in this section are effective October 1, 2009.)

Therapeutic mentoring services are structured, one-to-one, strength-based services that are designed to help ameliorate behavioral health (mental health or substance abuse) related conditions which prevent the youth from appropriate social functioning. These services must be delivered according to an individualized treatment plan developed by either an outpatient clinician, an in-home therapy clinician or, for youth enrolled in Intensive Care Coordination, a care planning team. Progress toward meeting the identified goal(s) must be documented and reported regularly to the provider responsible for the youth's treatment plan.

The therapeutic mentor does not provide social, educational, artistic, athletic, recreational or vocational services.

Settings: Therapeutic mentoring services are provided to youth in any setting where the youth resides, such as the home (including foster homes and therapeutic foster homes), school, child care centers and other community settings.

Providers: Therapeutic mentoring services are delivered by therapeutic mentors. Practitioners must be working under an employment or contractual arrangement with on of the following: outpatient hospitals, community health centers, mental health centers, other clinics, and private agencies certified by the Commonwealth. Providers of therapeutic mentoring utilize therapeutic mentors to provide these services.

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e **Family Support and Training:** (Services described in this section are effective July 1, 2009.)

A family support and training partner addresses goals established in an individualized treatment plan in order to resolve or ameliorate the youth's mental health, behavioral and emotional needs through enhancing the capacity of the parent(s)/guardians/caregivers) to implement activities required to meet the goals of the plan. Family support and training is a skill-building support and not a form of therapy or counseling. The individualized treatment plan must be developed by either an outpatient clinician, an In-home therapy clinician or, for youth enrolled in Intensive Care Coordination, a care planning team. These services include the following when they are relevant to the goals in the youth's individualized care plan:

- providing guidance to parent(s)/guardians(s)/caregiver(s) on navigating systems that support youth with mental health, behavioral and emotional needs, such as working effectively with state agency case managers, school system officials, provider agency staff and clinicians;
- fostering empowerment of parent(s)/guardian(s)/caregiver(s) by offering supportive guidance for parents of youth with mental health needs and encouraging participation in peer/parent support and self-help groups;
- providing guidance to the parent(s)/guardian(s)/caregiver(s) how to find, access and use formal and informal community-based resources (e.g., after-school programs, food assistance, housing resources, youth-serving systems, etc.); and
- modeling these skills for parent(s)/guardians(s)/caregiver(s).

Family support and training services do not include respite care or child care services.

Settings: Family support and training services are provided in any setting where the youth resides, such as the home (including foster homes and therapeutic foster homes), and other community settings.

Providers: Family support and training services are delivered by a family support and training partner. A family support and training partner must be working under an employment or contractual arrangement with one of the following: outpatient hospitals, community health centers, mental health centers, other clinics and private agencies certified by the Commonwealth.

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Definitions:

Associate-level counselors/paraprofessional
Associate-level counselors/paraprofessionals must have an associate's degree in a human services field from an accredited academic institution and one (1) year of relevant experience working with families or youth. If the associate's degree is not in a human services field, additional life or work experience may be considered in place of the human services degree. Associate-level counselors/paraprofessionals are supervised by a LICSW, LMFT, LMHC, LCSW, LADC I, Psychologist, Psychiatric Nurse or Nurse Clinical Specialist.

Bachelor-level counselors/paraprofessional
Bachelor-level counselors/paraprofessionals must have a bachelor's degree in a human services field from an accredited academic institution and one year of relevant experience working with families or youth. If the bachelor's degree is not in a human services field, additional life or work experience may be considered in place of the human services degree. Bachelor-level counselors/paraprofessionals are supervised by a LICSW, LMFT, LMHC, LCSW, LADC I, Psychologist, Psychiatric Nurse or Nurse Clinical Specialist.

Behavior Management Monitor
Behavioral management monitors must have a bachelor's degree in a human services field from an accredited university and one (1) year of relevant experience working with families, children or adolescents who require behavior management, or an associate's degree and a minimum of two (2) years of relevant experience working with families, children or adolescents who require behavior management. Behavior management monitors are supervised by a LICSW, LMFT, LMHC, LCSW, LADC I, Psychologist, Psychiatric Nurse or Nurse Clinical Specialist..

Certified Alcoholism/Drug Abuse Counselor (CADAC)
Certified by the private Massachusetts Board of Substance Abuse Counselor Certification (MBSACC). CADAC certification requires a combination of either a Master's degree in a "behavioral science area" and 2,000 hours of supervised experience or a Bachelor's degree in a behavioral science area and 4,000 hours of supervised experience or an Associates' degree in a behavioral science area and 6,000 hours of supervised experience. Certification also requires documentation of having received a minimum of 270 clock hours of continuing education related to the five domains for alcohol and other drug abuse. Consistent with applicable state licensure requirements, certified alcoholism/drug abuse counselors are supervised by a LICSW, LMFT, LMHC, LCSW, LADC I, Psychologist, Psychiatric Nurse or Nurse Clinical Specialist.

Certified Alcoholism/Drug Abuse Counselor II (CADAC II)
Certified by the private Massachusetts Board of Substance Abuse Counselor Certification (MBSACC). CADAC II certification requires a master's degree (or higher) from a regionally accredited academic institution in a human services behavioral sciences field with a clinical application (i.e., practicum); 2,000 hours of supervised experience and documentation of completion of 300-hour practicum. Consistent with applicable State licensure requirements, certified alcoholism/drug abuse counselor IIs are supervised by a LICSW, LMFT, LMHC, LCSW, LADC I, Psychologist, Psychiatric Nurse or Nurse Clinical Specialist..

Developmental-Behavioral Pediatrician
A person with a current, valid, unrestricted license to practice medicine issued by the Massachusetts Board of Registration in Medicine, who is board-certified in Pediatrics and either board-eligible or board-certified in Developmental-Behavioral Pediatrics

Developmental-Behavioral Pediatric Fellow
A person with a current, valid, unrestricted license to practice medicine issued by the Massachusetts Board of Registration in Medicine, who is board-certified in Pediatrics and enrolled in a training program in Developmental-Behavioral Pediatrics accredited by the Accreditation Council for Graduate Medical Education (ACGME). Services provided by the Developmental-Behavioral Pediatric Fellow must be provided in a setting approved for training by the sponsoring training institution, under supervision of a board certified or eligible Developmental-Behavioral Pediatrician, consistent with applicable state licensure requirements.

Family Support and Training Partner
A family support and training worker must have experience as a caregiver of a youth with special needs, preferably youth with behavioral health needs, experience in navigating any of the youth and family-serving systems and teaching family members who are involved with the youth and family serving systems, and either: a bachelor's degree in a human services field from an accredited academic institution, or an associate's degree in a human services field from an accredited academic institution and one (1) year of experience working with children/adolescents/transition-age youth and families, or a high school diploma or General Education Development (GED) and a minimum of two (2) years of experience working with children/adolescents/transition age youth and families. If the bachelor's or associate's degree is not in a human services field, additional life or work experience may be considered in place of the human services degree. Family partners are supervised by a LICSW, LMFT, LMHC, LCSW, LADC I, Psychologist, Psychiatric Nurse or Nurse Clinical Specialist.

Licensed Alcohol and Drug Counselor I – LADC I
A person licensed by the Department of Public Health to conduct an independent practice of alcohol and drug counseling, and to provide supervision to other alcohol and drug counselors, as defined in 105 CMR 168.000. These requirements include: a master's or doctoral degree in behavioral sciences, a minimum of 270 hours of training in substance abuse counseling, 300 hours of supervised practical training and 6,000 hours of supervised alcohol and drug counseling work experience.

Licensed Alcohol and Drug Counselor II – LADC II
A person licensed by the Department of Public Health to practice alcohol and drug counseling under clinical supervision, as defined in 105 CMR 168.000. These requirements include: a high school diploma or equivalent, a minimum of 270 hours of training in substance abuse counseling, 300 hours of supervised practical training and 6,000 hours of supervised alcohol and drug counseling work experience (4,000 if applicant holds a bachelor's degree). Consistent with applicable state licensure requirements, LADC IIs are supervised by a LICSW, LMFT, LMHC, LCSW, LADC I, Psychologist, Psychiatric Nurse or Nurse Clinical Specialist.

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Licensed Alcohol and Drug Counselor Assistant – LADC III
A person licensed by the Department of Public Health to provide recovery based services under direct clinical and administrative supervision, as defined in 105 CMR 168.000. These requirements include a high school diploma or equivalent, 2,000 hours of work experience in the alcohol or drug abuse field and a minimum of 50 hours of training in substance abuse counseling. Consistent with applicable state licensure requirements LACD IIIs are supervised by a LICSW, LMFT, LMHC, LCSW, LADC I, Psychologist, Psychiatric Nurse or Nurse Clinical Specialist.

Licensed Independent Clinical Social Worker (LICSW)
A person with a current, valid, unrestricted license to practice as an LICSW, issued by the Massachusetts Board of Registration of Social Workers. These requirements include: master's or doctoral degree in Social Work from a program accredited by the Council on Social Work Education and two years supervised experience.

Licensed Clinical Social Worker (LCSW)
A person with a current, valid, unrestricted license to practice as an LCSW, issued by the Massachusetts Board of Registration of Social Workers. These requirements include: master's or doctoral degree in Social Work from a program accredited by the Council on Social Work Education. Consistent with applicable state licensure requirements, LCSWs are supervised by a LICSW, LMFT, LMHC, LCSW, LADC I, Psychologist, Psychiatric Nurse or Nurse Clinical Specialist.

Licensed Social Worker (LSW)
A person with a current, valid, unrestricted license to practice as an LSW, issued by the Massachusetts Board of Registration of Social Workers. These requirements include: a bachelor's degree in Social Work from a program accredited by the Council on Social Work Education or a bachelor's degree in any subject and 3500 hours of supervised experience providing social work services. Consistent with applicable state licensure requirements, LSWs are supervised by a LICSW, LMFT, LMHC, LCSW, LADC I, Psychologist, Psychiatric Nurse or Nurse Clinical Specialist.

Licensed Social Work Associate (LSWA)
A person with a current, valid, unrestricted license to practice as an LSWA, issued by the Massachusetts Board of Registration of Social Workers. These requirements include: an associate degree, or at least sixty credit hours of college education, in the fields of social work, psychology, counseling or other similar human services field, from an accredited college or university; or a baccalaureate degree in any field from an accredited college or university; or a minimum of one thousand (1000) hours of education in social work theory and methods in courses or programs approved by the Board of Registration of Social Workers. Consistent with applicable state licensure requirements, LSWAs are supervised by a LICSW, LMFT, LMHC, LCSW, LADC I, Psychologist, Psychiatric Nurse or Nurse Clinical Specialist.

Licensed Marriage and Family Therapist (LMFT)
A person with a current, valid, unrestricted license to practice as a LMFT, issued by the Massachusetts Board of Registration of Allied Mental Health Professionals. These requirements include: a master's degree in the mental health field (including, but not restricted to, counseling, family therapy, psychology, etc.) from an accredited college or university and two years supervised experience.

Licensed Mental Health Counselor (LMHC)
A person with a current, valid, unrestricted license to practice as a LMHC, issued by the Massachusetts Board of Registration of Allied Mental Health Professionals. These requirements include: a master's degree in the mental health field (including, but not restricted to, counseling, family therapy, psychology, etc.) from an accredited college or university and two years supervised experience.

Licensed Psychologist
A person with current, valid, unrestricted license to practice psychology issued by the Massachusetts Board of Registration in Psychology. These requirements include a doctoral degree from a program accredited by the American Psychological Association and two years supervised experience

Marriage and Family Therapy Intern
The marriage and family therapy intern must be a second-year, clinical-track student in a structured field placement that is a component of a master's in marriage and family therapy or a master's in a counseling program that is fully accepted by the Board of Allied Mental Health and Human Services Profession. The marriage and family therapy intern must provide services under the direct supervision of a LICSW, LMFT, LMHC, LCSW, LADC I, Psychologist, Psychiatric Nurse, or Nurse Clinical Specialist consistent with applicable state licensure requirements.

Master's Level Counselor
A person with a master's or doctoral degree in a mental health field (including, but not restricted to, counseling, family therapy, social work, psychology, etc.) from an accredited college or university who is supervised by a LICSW, LMFT, LMHC, LCSW, LADC I, Psychologist, Psychiatric Nurse, or Nurse Clinical Specialist.

Mental Health Counselor Intern
The Mental Health Counselor Intern must be a second-year, clinical-track student in a structured field placement that is a component of a master's in mental health counseling or a master's in a counseling psychology program that is fully accepted by the Board of Allied Mental Health and Human Services Profession Consistent with applicable state licensure requirements, the Mental Heath Counselor Intern provides services under the supervision of a LICSW, LMFT, LMHC, LCSW, LADC I, Psychologist, Psychiatric Nurse or Nurse Clinical Specialist.

Psychiatric Nurse
A person with a current, valid, unrestricted license to practice as a registered nurse issued by the Board of Registration in Nursing, a master's degree in the mental health fields and one (1) year of experience delivering mental health services to families and youth. Consistent with applicable state licensure requirements, the Psychiatric Nurse provides services under the supervision of a LICSW, LMFT, LMHC, LCSW, LADC I, Psychologist, Psychiatric Nurse or Nurse Clinical Specialist.

Psychiatric Nurse Mental Health Clinical Specialist
A person with a current, valid, unrestricted license to practice as a registered nurse issued by the Massachusetts Board of Registration in Nursing and current, valid, unrestricted authorization by the Massachusetts Board of Registration in Nursing to practice as a Psychiatric Nurse Mental Health Clinical Specialist.

Psychiatric Nurse Mental Health Clinical Specialist Trainee
A person with a current, valid, unrestricted license to practice as a registered nurse issued by the Massachusetts Board of Registration in Nursing who is enrolled in a Psychiatric Nurse Mental Health Clinical Specialist training program recognized by the Massachusetts Board of Registration in Nursing. Consistent with applicable state licensure requirements, services provided by the Psychiatric Nurse Mental Health Clinical Specialist trainee are provided under supervision of a Psychiatric Nurse Mental Health Clinical Specialist.

Psychiatric Resident
A person with a current, valid, full or limited license to practice medicine issued by the Massachusetts Board of Registration in Medicine, who is enrolled in an Accreditation Council for Graduate Medical Education (ACGME)-accredited residency training program in either adult psychiatry or child and adolescent psychiatry. Services provided by the Psychiatric intern are provided in a setting approved for residency training by the sponsoring training institution, under supervision of a board certified or eligible child psychiatrist, consistent with applicable state licensure requirements.

Psychiatrist
A person with a current, valid, unrestricted license to practice medicine issued by the Massachusetts Board of Registration in Medicine. Psychiatrists treating youth ages 0 to 19 shall be board-certified or board-eligible in child and adolescent psychiatry. Psychiatrists treating youth ages 19 to 21 shall be trained in adult psychiatry.

Psychology Intern
The psychology intern must be admitted to doctoral candidacy in a structured clinical, or counseling, American Psychological Association (APA)-approved doctoral program. Consistent with state licensure requirements, services provided by a psychology intern are provided under the direct supervision of a licensed psychologist.

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Social Work Intern
The Social Work Intern must be a second-year, clinical-track student in a structured field practicum that is a component of an MSW program that is fully accredited by the Council on Social Work Education. Consistent with applicable state licensure requirements, services are provided under the direct supervision of a LICSW, LMFT, LMHC, LCSW, LADC I, Psychologist, Psychiatric Nurse or Nurse Clinical Specialist.

Therapeutic Mentors
Therapeutic mentors must be 21 years of age or older and have either: a bachelor's degree in a human service field from an accredited academic institution and one (1) year of relevant experience working with children/adolescents/transition age youth; or, an associate's degree in a human services field from an accredited academic institution and one (1) year of relevant experience working with children/adolescents/transition age youth; or, a high school diploma or General Educational Development (GED) and a minimum of two (2) years of experience working with children/adolescents/transition age youth. If the bachelor's or associate's degree is not in a human services field, additional life or work experience may be considered in place of the human services degree. Therapeutic mentors must be supervised by a LICSW, LMFT, LMHC, LCSW, LADC I, Psychologist, Psychiatric Nurse or Nurse Clinical Specialist. .

Item 5: Physician's Services

See Supplement to Attachment 3.1-A, P.1, Item 1, #1.

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t. Early and Periodic Screening, Diagnostic and Treatment services for individuals under 21 years of age, and treatment of conditions found.

The rate methodology used to create the following fee schedules for are based on a model budget that accounts for program costs (direct and indirect) and maximum productive time specific for the provision of each service. The data sources for program costs include cost reports from providers of similar behavioral health services and budget data from other purchasers of similar services. Maximum productive time for each service was derived by assessing the time available for direct billable contacts by eligible direct care staff.

Mobile Crisis Intervention – fee schedule established by the Division of Health Care Finance and Policy. The fee-for-service rates were set as of December, 15 2008. These fixed rates are effective for service provided on or after July 1, 2009. All rates are published on www.mass.gov/dhcfp. Except as otherwise noted in the plan, state developed fee schedule rates are the same for both governmental and private providers.

Behavioral Management Therapy – fee schedule established by the Division of Health Care Finance and Policy.. The fee-for-service rates were set as of December, 15 2008. These fixed rates are effective for service provided on or after July 1, 2009. All rates are published on www.mass.gov/dhcfp. Except as otherwise noted in the plan, state developed fee schedule rates are the same for both governmental and private providers.

Behavioral Management Monitoring - fee schedule established by the Division of Health Care Finance and Policy. The rates were set as of December, 15 2008. These fixed rates are effective for service provided on or after July 1, 2009. All rates are published on www.mass.gov/dhcfp. Except as otherwise noted in the plan, state developed fee schedule rates are the same for both governmental and private providers.

In-Home Therapy – fee schedule established by the Division of Health Care Finance and Policy.. The fee-for-service rates were set as of December, 15 2008. These fixed rates are effective for service provided on or after July 1, 2009. All rates are published on www.mass.gov/dhcfp. Except as otherwise noted in the plan, state developed fee schedule rates are the same for both governmental and private providers.

Therapeutic training and support – fee schedule established by the Division of Health Care Finance and Policy. The fee-for-service rates were set as of December, 15 2008. These fixed rates are effective for service provided on or after July 1, 2009. All rates are published on www.mass.gov/dhcfp. Except as otherwise noted in the plan, state developed fee schedule rates are the same for both governmental and private providers

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Therapeutic Mentoring Services -- fee schedule established by the Division of Health Care Finance and Policy. The fee-for-service rates were set as of December, 15 2008. These fixed rates are effective for service provided on or after July 1, 2009. All rates are published on www.mass.gov/dhcfp. Except as otherwise noted in the plan, state developed fee schedule rates are the same for both governmental and private providers.

Family Counseling Support Services - fee schedule established by the Division of Health Care Finance and Policy. The fee-for-service rates were set as of November 1, 2008. These fixed rates are effective for service provided on or after July 1, 2009. All rates are published on www.mass.gov/dhcfp. Except as otherwise noted in the plan, state developed fee schedule rates are the same for both governmental and private providers.

EXHIBIT 2

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13.e. Behavior Rehabilitation Services

Behavior Rehabilitation Services are provided to children/youth to remediate debilitating psycho-social, emotional and behavioral disorders. To provide early intervention, stabilization and development of appropriate coping skills upon the recommendation of a licensed practitioner of the healing arts within the scope of their practice within the law. Prior approval is required.

Service Description

Behavior Rehabilitation Services may be provided in a variety of settings and consist of interventions to help children/youth acquire essential coping skills. Specific services include milieu therapy, crisis counseling, regular scheduled counseling and skills training. The purpose of this service is to remediate specific dysfunctions which have been explicitly identified in an individualized written treatment plan that is regularly

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reviewed and updated. Client centered treatment services may be provided individually or in groups and may include the child's/youth's biological, adoptive or foster family. Treatment is focused upon the needs of the child/youth, not the family unit. These services may be in conjunction with or in support of any other professional treatment services the child/youth may be receiving as required by the diagnosed condition.

The services will include crisis intervention and counseling on a 24-hour basis to stabilize the child's/youth's behavior until resolution of the problem is reached, or until the child/youth can be assessed and treated by a qualified Mental Health Professional or licensed Medical Practitioner.

Regular scheduled counseling and therapy is provided to remediate specific dysfunctions which have been explicitly identified in the treatment plan.

Skill training is provided to assist the child/youth in the development of appropriate responses to social and emotional behaviors, peer and family relationships, self-care, conflict resolution, aggression reduction, anger control, and to reduce or eliminate impulse and conduct disorders.

Milieu therapy refers to those activities performed with children/youth to normalize their psycho-social development and promote the safety of the child/youth and stabilize their environment. The child/youth is monitored in structured activities which may be developmental, recreational, academic, rehabilitative, or a variety of productive work activities. As the child/youth is monitored, planned interventions are provided to remediate the identified dysfunctional or maladaptive behaviors and promote their replacement with more developmentally appropriate responses.

Population To Be Served.

The population serviced will be EPSDT eligible children/youth who have primary mental, emotional and behavioral disorders and/or developmental disabilities that prevent them from functioning at developmentally appropriate levels in their home, school, or community. They exhibit such symptoms as drug and alcohol abuse, anti-social behaviors that require close supervision and intervention and structure, sexual behavior problems, victims of severe family conflict, behavioral disturbances often resulting from psychiatric disorders of the parents, medically compromised and developmentally disabled children/youth who are not otherwise served by the State Mental Health Developmental Disability Services Division.

STATE OF OREGON

LIMITATION ON SERVICES

Provider Qualifications.

Program Coordinator: Responsibilities include supervision of staff, providing overall direction to the program, planning and coordinating program activities and delivery of services, and assure the safety and protection of children/youth and staff.

The Minimum Qualifications- A Bachelor's Degree, preferably with major study in psychology, Sociology, Social Work, Social Sciences, or a closely allied field, and two years experience in the supervision and management of a residential facility for care and treatment of children/youth.

Social Service Staff: Responsibilities include Case Management and the development of service plans; individual, group and family counseling; individual and group skills training; assist the Child Care Staff in providing appropriate treatment to children/youth, coordinate services with other agencies; document treatment progress.

The Minimum Qualifications- A Masters Degree with major study in Social Work or a closely allied field and one year of experience in the care and treatment of children/youth, or a Bachelor's Degree with major study in Social Work, psychology, Sociology, or a closely allied field and two years experience in the care and treatment of children/youth.

Child Care Staff: Responsibilities include direct supervision and control of the daily living activities of children/youth, assisting social service staff in providing individual, group and family counseling, skills training, provide therapeutic interventions to children/youth as directed by the individual treatment plans to address behavioral and emotional problems as they arise, monitor and manage the children's/youth's behavior to provide a safe, structured living environment that is conducive to treatment.

Minimum Qualifications- Require that no less than 50% of the Child Care Staff in a facility have a Bachelor's Degree. Combination of formal education and experience working with children/youth may be substituted for a Bachelor's Degree. Child Care are members of the treatment team and work under the direction of a qualified Social Service staff or a Program Coordinator.

EXHIBIT 3

Exhibit 17

A. Diagnostic Services. Provided under the EPSDT program.

B. Screening Services. Annual mammography provided to women aged 40 and over. Screening services also provided under the EPSDT program.

C. Preventive Services. Annual gynecological and breast examinations with pap smear tests provided to women who are or have been sexually active or are age 18 and over. Preventive services also provided under the EPSDT PROGRAM.

D. Rehabilitative Services:

1. Mental Health Rehabilitation Services

Mental health rehabilitation assists individuals to restore and/or retain psychiatric stability, social integration skills, personal adjustment and/or independent living competencies in order to experience success and satisfaction in environments of their choice and to function as independently as possible. Interventions occur concurrently with clinical treatment and begin as soon as clinically appropriate.

The services must be recommended by a physician or other licensed practitioner of the healing arts, within their scope of practice and prescribed on an individualized treatment plan to achieve maximum reduction of a mental disability and restore the recipient to their optimal level of functioning.

Each individual service must be identified on a written rehabilitation plan. This is also referenced as the treatment plan. Providers are required to maintain case records. Components of the rehabilitation plan and case records must be consistent with the federal rehabilitation regulations. Rehabilitation services may only be covered by Medicaid if they are not the responsibility of other programs and if all applicable requirements of the Medicaid program are met. Services covered under the Title IV-E program are not covered under the rehabilitation program. Room and Board is not an allowable service under the mental health rehabilitative program. Services are not provided to recipients who are inmates of a public institution.

These services require utilization review according to the individual intensity of need and are time limited.

Rehabilitative mental health services may be provided in a community-based, outpatient services, home-based, and school-based environment. Depending on the specific services they may be provided in a group or individual setting. All collateral services that are delivered to a person that is an integral part of the recipient's environment such as medically necessary training, counseling and therapy, must directly support the recipient.

Services are based on an intensity of needs determination. The assessed level of need specifies the amount, scope and duration of mental health rehabilitation services required to improve, retain a recipient's level of functioning or prevent relapse. The determination cannot be based upon the habilitative needs of the recipient.

Intensity of needs determination is completed by a trained Qualified Mental Health Professional (QMHP) or Qualified Mental Health Associate (QMHA) and is based on several components related to person- and family-centered treatment planning. These components include:

- A comprehensive assessment of the recipient's level of functioning;
- The clinical judgment of the QMHP; or
- The clinical judgment of the case manager working under clinical supervision who is trained and qualified in mental health intensity of services determinations; and
- A proposed Treatment Plan.

A re-determination of the intensity of needs must be completed every 90 days or anytime there is a substantial change in the recipient's clinical status.

Nevada Medicaid utilizes an intensity of needs grid to determine the amount and scope of services based upon the clinical level of care of the recipient. The grid is based upon the current level of care assessments: Level of Care Utilization System (LOCUS) for adults and Child and Adolescent Services Intensity Instrument (CASII) for children. The determined level on the grid guides the interdisciplinary team in planning treatment.

Within each level there are utilization standards for the amount of services to be delivered. The six levels are broken out by the following categories in order from less intense to more intense;

Level of Care Utilization System (LOCUS)

- Level 1- Recovery maintenance and health management,
- Level 2- Low intensity community based services,
- Level 3- High intensity community based services,
- Level 4- Medically monitored non-residential services,
- Level 5- Medically monitored residential services, and
- Level 6 -Medically managed residential services.

Child and Adolescent Services Intensity Instrument (CASII)

- Level 1- Basic services, Recovery maintenance and health management,
- Level 2-Outpatient services,
- Level 3- Intensive outpatient services,
- Level 4- Intensive integrated services,
- Level 5- Non-secure, 24 hour services with psychiatric monitoring,
- Level 6- Secure, 24 hour services with psychiatric management.

All mental health rehabilitation services must meet the associated admission and continuing stay criteria and go through utilization management per the intensity of needs grid.

Service Array:

1. *Assessments:* Covered for problem identification (diagnosis) and to establish measurable treatment goals and objectives by a Qualified Mental Health Professional or designated Qualified Mental Health Associate in the case of a Mental Health Screen. An assessment is not intended for entry into each of the services. It is provided as an overall assessment of the recipient's needs. Assessments are limited to two per calendar year. Additional assessments may be prior authorized based upon medical necessity. Re-assessments utilizing the appropriate CPT codes are not subject to the initial assessment limitations.

2. *Mental Health Screens*: Determine eligibility for admission to treatment program. This is completed through a clinical determination of the intensity of need of the recipient. The objective of this service is to allow for the 90 day review for the intensity of needs determination and to determine either SED or SMI if it has not already been determined. The provider must meet the requirements of a QMHA.

3. *Neuro-cognitive/psychological and mental status testing:* This service is performed by a QMHP. Examples of testing are defined in the CPT; neuropsychological testing,

neurobehavioral testing, and psychological testing. Each service includes both interpretation and reporting of the tests. This service requires prior authorization.

4. *Basic Skills Training*: Services in this category are rehabilitative interventions that target concrete skills training such as: monitoring for safety, basic living skills, household management, self-care, social skills, communication skills, parent education, organization skills, time management, and transitional living skills. This service is provided in a variety of settings including community-based, outpatient services, and the home environment. The level of professional providing the services is dependent upon the needs of the recipient and the utilization management criteria. This service is provided by a QMHP or QMHA, under the direction of a QMHP, or provided by a QBA under the direct supervision of a QMHP or QMHA. This may be provided in a group (four or more individuals) or in an individual setting. These services require utilization review according to the individual intensity of need and are time limited.

5. *Psycho-social Rehabilitation*: Services in this category are rehabilitative interventions that target specific behaviors. These services may include: behavioral management and counseling, conflict and anger management, interpersonal skills, collateral interventions with schools and social service systems, parent and family training and counseling, community transition and integration, and self-management. This service is provided in a variety of settings including, community-based, outpatient services, and the home environment. The level of professional providing the services is dependent upon the needs of the recipient and the utilization management criteria. This is provided on an individual basis or in a group consisting of at least four individuals. Service is provided by a QMHP or a QMHA. The services provided may be directly attributable to an individual provider. Recipients must either be severely emotionally disturbed or seriously mentally ill. The level of care of the recipient is consistent with the high intensity community based services. These services require utilization review according to the individual intensity of need and are time limited. This service is reimbursed in 15 minute increments.

6. *Crisis Intervention*: A service provided by a QMHP to recipients who are experiencing a psychiatric crisis and a high level of personal distress. Crisis intervention services are brief, immediate and intensive interventions to reduce symptoms, stabilize the recipient, restore the recipient to his/her previous level of functioning, and to assist the recipient in returning to the community as rapidly as possible, if the recipient has been removed from their natural setting. The individual demonstrates an acute change in mood or thought that is reflected in the recipient's behavior and necessitates crisis intervention to stabilize and prevent hospitalization. The Individual is a danger to himself, others or property or is unable to care for self as a result of personal illness. These services may be mobile and may be provided in a variety of settings, including, but not limited to, psychiatric emergency departments, homes, hospital emergency rooms, schools, child protective custody and homeless shelters. Crisis intervention services include follow-up and de-briefing sessions to ensure stabilization and continuity of care.

The service may be provided telephonically, as long as the service meets the definition of crisis intervention. Face to face crisis intervention is reimbursable for either one QMHP or a team that is composed of at least one QMHP and another QMHP or QMHA. This service is allowable for all levels of care. These services require utilization review according to the individual intensity of need and are time limited.

6. *Medication Management Training and Support* - Provided by a QMHP other than a physician. Typically this service is provided by a registered nurse. This service is for monitoring of compliance, side effects, recipient education and coordination of requests to a physician for changes in medication(s). This service may be provided in the home and community-based program. This service is provided at all levels of care. This service is not the same as medication management that is provided by a physician under physician services.

7. *Mental Health Therapy:* Provided by a QMHP for individual, group, and/or family therapy with the recipient present and for family therapy without the recipient present. Therapy delivered must be of a direct benefit to the recipient. Minimum size for group therapy is three individuals and a maximum therapist to participant ratio is one to ten. Mental health therapy is billed utilizing the appropriate CPT codes for licensed professionals. Mental health therapy is available at all levels of care. The intensity of the service increases based on the need of the recipient. These services require utilization review according to the individual intensity of need and are time limited.

8. *Day Treatment Program*: A community-based psycho-social program of rehabilitative services designed to improve individual and group functioning for effective community integration. This is not an Institution for Mental Illness (IMD), a Residential Treatment Facility, nor is it an institution as defined under federal regulation. Admission to this program requires: severe emotional disturbance or serious mental illness and recipient's clinical and behavioral issues require intensive, coordinated, multi-disciplinary intervention within a therapeutic milieu. Day treatment is provided in a structured therapeutic environment which has programmatic objectives such as but not limited to: development of skills to promote health relationships and learn to identify ingredients that contribute to healthy relationships, development of coping skills and strategies, development of aggression prevention plans, problem identification and resolution, ability to learn respectful behaviors in social situations, development of the ability to demonstrate self-regulation on impulsive behaviors, development of empathy for peers and family and develop a clear understanding of recipients cycles of relapse and a relapse prevention plan. Services must be provided by a QMHP or by a QMHA under the direct supervision of a QMHP. The services provided may be directly attributable to an individual provider. The staff ratio is one to five participants. The average time per day this program is offered is three hours per day. Mental health therapy is a separate billable service under the appropriate CPT codes.

Mental health therapy and day treatment cannot be billed for the same time period. This service is consistent with intensive integrated outpatient services. These services require utilization review according to the individual intensity of need and are time limited. This service is reimbursed in hourly increments.

10. *Peer-to-Peer Support Services*: These supportive services assist a recipient and/or their family with accessing mental health rehabilitation services or community support services for needed stabilization, preventive care or crisis intervention. These services may include: empathic personal encouragement, self-advocacy, self-direction training, and peer recovery. These services must be a direct benefit to the recipient. Services may be provided in a group (requires five or more individuals) or individual setting. The services are identified in the recipient's treatment plan and must be provided by a Peer Supporter working collaboratively with the case manager or child and family team/interdisciplinary team. A minimum amount of services are offered based on the intensity of needs and prior authorization is required for utilization of services above the minimum amount. These services require utilization review according to the individual intensity of need and are time limited.

    A Peer Supporter is a qualified individual currently or previously diagnosed with a mental health disorder who has the skills and abilities to work collaboratively with and under the direct supervision of a QMHP in the provision of supportive assistance for rehabilitation services as identified in the treatment plan. Peer Supporters are contractually affiliated with a Behavioral Health Community Network, psychologist, or psychiatrists in order to be provided with medical supervision. Supervision by the QMHP must be provided and documented at least monthly. The selection of the Peer Supporter is based on the best interest of the recipient. The Peer Supporter must be approved by a QMHP. A Peer Supporter can not be the legal guardian or spouse of the recipient. A Peer Supporter must meet the minimum qualifications of a QBA.

Service Limitations

Rehabilitation mental health services are therapies or interventions identified in the treatment plan that are intended to result in improving or retaining a recipient's level of functioning. These services are person- and family-centered, culturally competent, and must have measurable outcomes. The amount and duration of the service is reflective of the intensity of needs determination of the recipient. Services require authorization through Nevada Medicaid's QIO-like vendor. The level of professional providing the service is dependent upon the needs of the recipient and the utilization management criteria.

Provider Qualifications

a. Qualified Mental Health Professional: A person who meets the definition of a QMHA and also meets the following documented minimum qualifications: 1) Holds any of the following educational degrees and licensure; Doctorate degree in psychology and license; Bachelor's degree in nursing, APN (psychiatry), graduate degree in social work with

the following: a graduate degree in counseling and a license as a marriage and family therapist, or a clinical professional counselor, or is employed by the State of Nevada mental health agency and meets class specification qualifications of a Mental Health Counselor. The following licensed interns are covered as a QMHP: Licensed clinical social worker intern, licensed marriage and family therapist intern, and licensed clinical professional counselor interns. Interns must be supervised in accordance with state regulations and may only provide services within the scope of their licensure.

b. Qualified Mental Health Associate: A person who meets the following minimum documented qualifications; 1) Registered nurse OR 2) holds a bachelor's degree in a social services field with additional understanding of mental health rehabilitation services, and case file documentation requirements; AND 3) whose education and experience demonstrate the competency under clinical supervision to direct and provide professional therapeutic interventions within the scope of their practice and limits of their expertise, identify presenting problems, participate in treatment plan development and implementation, coordinate treatment, provide parenting skills, training, facilitate discharge plans, and effectively provide verbal and written communication on behalf of the recipient to all involved parties, AND 4) Has an FBI background check in accordance with the provider qualifications of a QBA.

c. Qualified Behavioral Aide: A person who has an educational background of a high-school diploma or GED equivalent. A QBA may only provide the following services: basic skills training and peer support services. A QBA must have the documented competencies to assist in the provision of individual and group rehabilitation services which are under the direct supervision of a QMHP or QMHA, read, write and follow written or oral instructions, perform mental health rehabilitation services as documented in the treatment plan, identify emergency situations and respond accordingly, communicate effectively, document services provided, maintain confidentiality, successfully complete approved training program, CPR certification, and have completed an FBI criminal background check to ensure no convictions of applicable offenses have been incurred. QBA's are required to participate in and successfully complete an approved training program which includes basic training, periodic and continuing in service training. Training must be interactive and not solely based on self-study guides or videotapes and should ensure that a QBA will be able to interact appropriately with individuals with mental health disorders. Training must also include:

- Case file documentation;
- Recipient's rights;
- HIPAA compliance;
- Communication skills;
- Problem solving and conflict resolution skills;
- Communication techniques for individuals with communication or sensory impairments; and
- CPR certification

The entity that is providing supervision over the QBA shall provide annually a minimum of eight hours of service training for each QBA. The purpose of the annual training is to facilitate the development of specialized skills or knowledge not included in the basic training and/or to review or expand skills or knowledge included in the basic training. Consideration must be given to topics suggested by recipients. Documentation of the completed training and achieved competencies meeting this requirement must be maintained by the entity. Training requirements may be waived if the QBA can provide written verification of comparable education and training. The entity must document this validation.

approved training program, CPR certification, and have completed an FBI criminal background check to ensure no convictions of applicable offenses have been incurred. QBA's are required to participate in and successfully complete an approved training program which includes basic training, periodic and continuing in service training. Training must be interactive and not solely based on self-study guides or videotapes and should ensure that a QBA will be able to interact appropriately with individuals with mental health disorders. Training must also include:

- Case file documentation;
- Recipient's rights;
- HIPAA compliance;
- Communication skills;
- Problem solving and conflict resolution skills;
- Communication techniques for individuals with communication or sensory impairments; and
- CPR certification

The entity that is providing supervision over the QBA shall provide annually a minimum of eight hours of service training for each QBA. The purpose of the annual training is to facilitate the development of specialized skills or knowledge not included in the basic training and/or to review or expand skills or knowledge included in the basic training. Consideration must be given to topics suggested by recipients. Documentation of the completed training and achieved competencies meeting this requirement must be maintained by the entity. Training requirements may be waived if the QBA can provide written verification of comparable education and training. The entity must document this validation.

(Reserved)

PROOF OF SERVICE BY E-MAIL AND MAILING

I am over the age of 18 and not a party to the within action. I am employed by the Office of United States Attorney, Central District of California. My Business address is 300 North Los Angeles Street, Suite 7516, Los Angeles, California 90012

On **November 18, 2011**, I electronically/mailed served:

Comments of the United States in Support of Final Approval of the Proposed Settlement Agreement
on each person or entity named below by e-mailing a pdf copy addressed as shown below following our ordinary office practices. I am readily familiar with the practice of this office for e-mailing and mailing.

Date of e-mail and mailing: **November 18, 2011**. Place of e-mailing and mailing: **Los Angeles, California**.

Person(s) and/or Entity(s) to Whom e-mailed was sent:

Andrew Marc Mudryk
Protection and Advocacy Inc
Email: andrew.mudryk@disabilityrightsca.org

Fiza A. Quraishi
National Center for Youth Law
Email: fquraishi@youthlaw.org

Ira Burnim
Judge Bazelon Center for Mental Health Law
Email: lrab@bazelon.org

John F O'Toole
National Center for Youth Law
405 14th St, 15th Fl
Oakland, CA 94612-2701
510-835-8098

Kimberly Lewis
National Health Law program
Email: lewis@healthlaw.org

Kirk A Hornbeck , Jr
Hunton & Williams LLP
Email: khornbeck@hunton.com

Mark D Rosenbaum
ACLU Foundation of Southern CA
Email: mrosenbaum@aclu-sc.org

Melinda Ruth Bird
Disability Rights California
Email:melinda.bird@disabilityrightsca.org

Michael J Stortz
Disability Rights California
Email: michael.stortz@disabilityrightsca.org

Patrick H Gardner
National Center For Youth Law
Email: pgardner@youthlaw.org

Richard A Rothschild
Western Center on Law and Poverty
Email: rrothschild@wclp.org

Robert D Newman
Western Center on Law & Poverty
Email: rnewman@wclp.org

Antionette D Dozier
Western Center on Law and Poverty
Email: adozier@wclp.org

Katherine M Bowser
County of Los Angeles Office of County Counsel
Email: kbowser@counsel.lacounty.gov

Carmen Denise Snuggs
Office of Attorney General of California
Email: carmen.snuggs@doj.ca.gov

Jennifer M Kim
Office of CA Attorney General
Email: jennifer.kim@doj.ca.gov

Ernest Martinez
Office of Attorney General of California
Email: ernest.martinez@doj.ca.gov

Lionel Zevi Glancy
Glancy Binkow & Goldberg LLP
Email: lglancy@glancylaw.com

Brandon T Nichols
Los Angeles County Counsel
Email: bnichols@counsel.lacounty.gov

Sara Ugaz
Office of the City Attorney, Los Angeles
Email: sara.ugaz@lacity.org

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on: **November 18, 2011**, at Los Angeles, California.

OLIVIA ROMERO