



COMMONWEALTH OF VIRGINIA
Virginia Board for People with Disabilities

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Delegate Kaye Kory
6505 Waterway Drive
Falls Church, VA 22044

Dear Delegate Kory,

I am pleased to share with you three assessments of specific aspects of the developmental disability services system completed by the Virginia Board for People with Disabilities (VBPD). The Virginians with Disabilities Act § 51.5-33 directs the Board to submit an annual report to the Governor, through the Secretary of Health and Human Resources, that provides an in-depth assessment of at least two major service areas for people with disabilities in the Commonwealth. Each assessment contains concise recommendations to improve the quality of services.

The release of the state fiscal year 2020 assessments was delayed due impacts of the COVID-19 pandemic. Enclosed you will find the following VBPD state fiscal year (SFY) 2020 Assessments:

- 1) New Residential Services Available in the Developmental Disability Waivers
- 2) New Day and Employment Services Available in the Developmental Disability Waivers

Also enclosed is one VBPD SFY 2021 Assessment:

- 3) Institutional Supports: Intermediate Care Facilities for Individuals with Intellectual Disabilities

The Board looks forward to your review of the Assessments, which have been submitted to Governor Northam and Secretary Carey. The Assessments will be posted on the Board's website as an accessible PDF file. If you have any questions about the Assessments, please contact feel free to contact me by phone at (804) 786-9369 or by e-mail at Teri.Morgan@vbpd.virginia.gov. You may also contact the Board's Deputy Director of Policy and Legislative Affairs, Clare Huerta, at Clare.Huerta@vbpd.virginia.gov or (804) 786-9380.

We would welcome the opportunity to review Assessment Findings and Recommendations in the areas of Residential, Day and Employment Services, and Institutional Supports in the Commonwealth with you or your staff at your convenience.

Sincerely,

Teri Morgan

Intermediate Care Facilities for Individuals with Intellectual Disabilities Assessment Recommendations

For action by the General Assembly

Purpose of the Assessment

To identify critical issues regarding intermediate care facilities for individuals with intellectual disabilities (ICF/IIDs), including their utilization, cost, and quality of care. The Board offers 26 recommendations for improving state oversight of ICF/IID services for Virginians with developmental disabilities, eight of which are directed to the Virginia General Assembly and are listed here.

Key Takeaway

Virginia has largely overlooked ICF/IIDs that are not operated by the Commonwealth, with the exception of recent changes to the admission process for all ICF/IIDs and discharge process for children's ICF/IIDs. Virginia has relied too heavily on ICF/IIDs to regulate themselves, which poses a conflict of interest that jeopardizes the well-being of the people who live there.



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Recommendations Related to Minimizing ICF/IID Utilization

Recommendation 1: The Virginia General Assembly should amend the Section 32.1-102.1:3 of the *Code of Virginia* to require ICF/IIDs with more than six beds to obtain a Certificate of Public Need prior to development.

Recommendation 2: The Virginia General Assembly should amend Section 37.2-315 of the *Code of Virginia* to specify that the Department of Behavioral Health and Developmental Services' Comprehensive State Plan should address future demand versus supply for Medicaid residential services for people with disabilities, by type of service including ICF/IIDs. The analysis of future demand and supply should consider the barriers to serving people in home- and community-based settings, and the impact of feasible options for addressing those barriers.

Recommendation 7: The Virginia General Assembly should provide any additional funding necessary for the Department of Behavioral Health and Developmental Services to expand its annual Level of Care Reviews and annual training on alternative community services from children's ICF/IIDs to all ICF/IIDs.

Recommendation 9: The Virginia General Assembly should require the Department of Medical Assistance Services, in consultation with the Department of Behavioral Health and Developmental Services, to submit an annual report on the utilization of community ICF/IIDs that includes the following: (i) the number of ICF/IIDs, by size and ownership type, over time; (ii) the number of ICF/IID residents, by facility size and ownership type, over time; (iii) cost of ICF/IIDs to the state over time, by facility ownership type; (iv) barriers to serving ICF/IID residents in more integrated settings; and (iv) steps taken to address the barriers.

Recommendations Related to Minimizing ICF/IID Costs

Recommendation 11: The Virginia General Assembly should require the Department of Medical Assistance Services to study ICF/IID rates and report its findings to the General Assembly by November 1, 2022. The report should include (i) change over time in ICF/IID rates and possible explanatory factors, (ii) range of ICF/IID rates across facilities and possible explanatory factors, (iii) comparison of ICF/IID rates to the ceiling, as well as the appropriateness of the ceiling, (iv) incentives under the current reimbursement methodology regarding efficiency and effectiveness, (v) reimbursement rates in Virginia compared to other states, (vi) reimbursement methodologies used in other states, and (vii) recommendations for an alternative reimbursement methodology and its potential impact on cost and quality.

Recommendations Related to Ensuring Health and Safety in ICF/IIDs

Recommendation 18: The Virginia General Assembly should provide any additional funding necessary for the Virginia Department of Health to certify intermediate care facilities for individuals with intellectual disabilities within the federally required timeframes, verify implementation of related Plans of Correction, impose alternative remedies, and conduct an annual review of the certification process.

Recommendations Related to Improving Coordination of ICF/IID Oversight

Recommendation 22: The Virginia General Assembly should establish a workgroup to facilitate ICF/IID oversight that includes staff from the Department of Medical Assistance Services, Virginia Department of Health, Department of Behavioral Health and Developmental Services, and disAbility Law

Center of Virginia. The group should meet at least twice per year to share findings and concerns from their ICF/IID oversight activities, identify barriers to and gaps in oversight activities, and produce an annual report described in Recommendation 23.

Recommendation 23: The Virginia General Assembly should require Department of Medical Assistance Services, in consultation with Department of Behavioral Health and Developmental Services and the Virginia Department of Health, to submit an annual report on quality of care at ICF/IIDs that includes (i) a summary of all state oversight activities pertaining to ICF/IID during the year; (ii) a summary of findings from the oversight activities, including the number, frequency, and nature of identified problems; and (iii) trends over time in the conduct and findings of oversight activities; (iv) steps that were taken to address any undesirable findings, and additional steps that could be taken to address them; and (v) any barriers to, and gaps in, overseeing ICF/IIDs and steps that can be taken to address these barriers.



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Residential, Day and Employment DD Waiver Services Assessments Recommendations

For action by the General Assembly

Purpose of the Assessments

To determine the extent to which new residential and day services, and opportunities for competitive integrated employment, have furthered the goals of Virginia's 2016 redesign of Medicaid home and community based services waivers, referred to as the Developmental Disability (DD) waivers.

Supported Living

Recommendation 1: The General Assembly should support the goals of the Settlement Agreement and waiver redesign to incentivize integrated and independent living options by establishing rates for the provision of supported living services that are comparable to the rates for the provision of group home residential services.

Competitive Integrated Employment

Recommendation 1: The General Assembly should direct the Departments of Medical Assistance Services, Behavioral Health and Developmental Services and Aging and Rehabilitative Services to study options for designing and implementing a value-based purchasing model for supported employment services in Virginia. The study should include an assessment of other states like Wisconsin that use a value-based purchasing model to reward providers for supporting individuals with a spectrum of support needs in sustained job placements.

Recommendation 4: The Commonwealth of Virginia should develop and implement a plan to phase out sheltered employment settings and the use of Section 14(c) certificates of the Fair Labor Standards Act (FLSA). Resources should be shifted to support competitive integrated employment and individuals currently served in sheltered employment settings should be transitioned into competitive integrated employment

Individual Empowerment in the DD Services System

Recommendation B: DMAS should consider establishing and seeking General Assembly approval of person-centered facilitation as a distinct, non-duplicative waiver service that would provide more support and expertise to tailor service options to an individual's needs and goals like in Kentucky, where "person-centered coaching" services provide "for modeling, monitoring, assessing and implementing the person-centered plan."

Key Takeaway

To work as designed, the new services require appropriate to individual needs, and more providers able to adapt to new ways of delivering supports.



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