UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

THE UNITED STATES OF AMERICA, Plaintiff, v. STATE OF NEW YORK, Defendant.	Civ. Action No. 13-CIV-4165 (NGG)

RAYMOND O'TOOLE, ILONA SPIEGEL, and STEVEN FARRELL, individually and on behalf of all others similarly situated, Plaintiffs, v. ANDREW M. CUOMO, in his official capacity as Governor of the State of New York, NIRAV R. SHAH, in his official capacity as Commissioner of the New York State Department of Health, KRISTIN M. WOODLOCK, in her official capacity as Acting Commissioner of the New York State Office of Mental Health, THE NEW YORK STATE DEPARTMENT OF HEALTH, and THE NEW YORK STATE OFFICE OF MENTAL HEALTH, Defendants.	Civ. Action No. 13-CIV-4166 (NGG)

FIFTH ANNUAL REPORT SUBMITTED BY
CLARENCE J. SUNDRAM
INDEPENDENT REVIEWER*

* The members of the Independent Review team, Mindy Becker, Thomas Harmon, Stephen Hirschhorn and Kathleen O'Hara, contributed substantially in the research and preparation of this report.

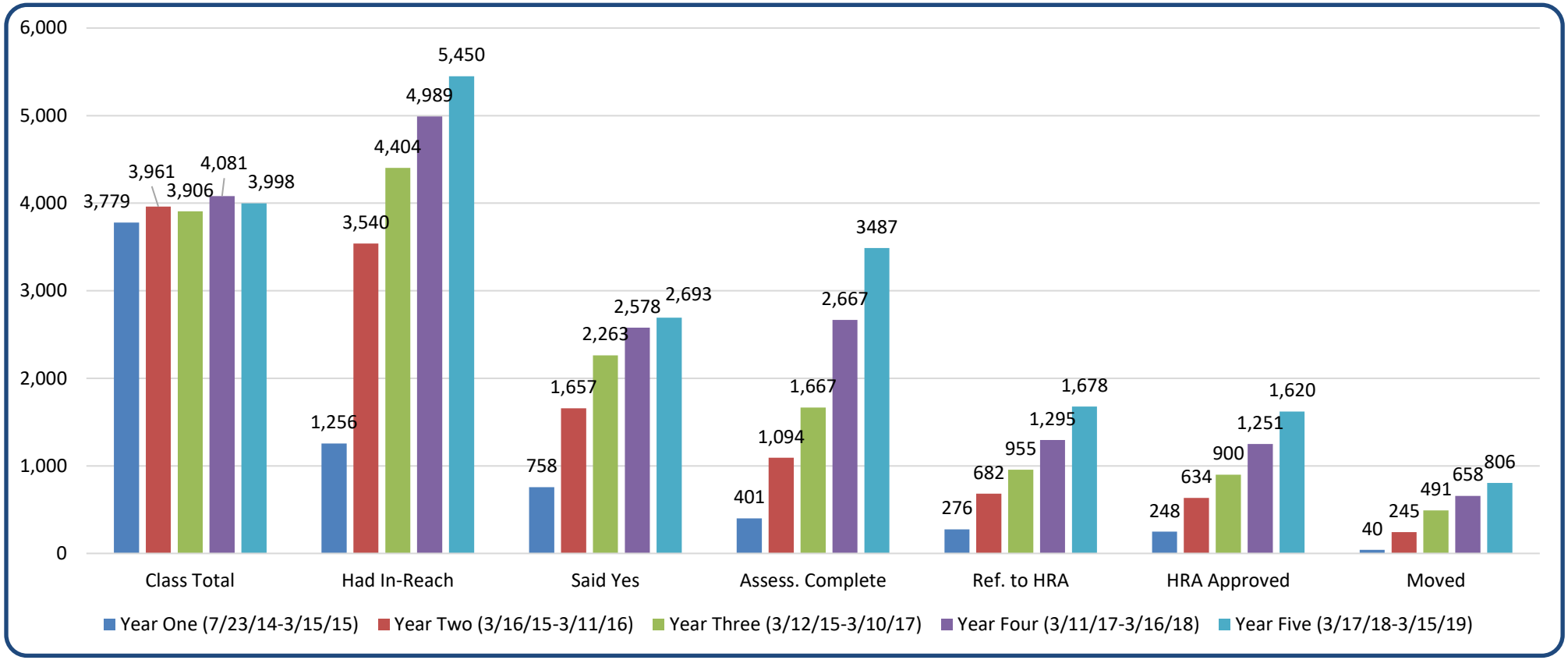

Fig. 1. Summary of progress 2014-2019[1]

[1] The calculation of completed assessments for this annual report is complicated due to a change made in the Supplemental Agreement. As of March 15, 2019, there were 3,487 class members with completed assessments. In previous years, this number was drawn from the Weekly Report for the period ending that day, and we would look for the number of people who had final AHRARs distributed to the Department of Health's Community Transition Program (CTP) which would be prior to HRA submission and approval. However, the Supplemental Agreement changed responsibility for doing assessments to housing contractors, and changed how completed assessments are calculated. Data regarding assessment completion is not entered into the Weekly Report until after the HRA approves and the AHRAR is then distributed. The Weekly Report ending March 16, 2018 shows there were 2,667 cases with AHRARS distributed to the CTP as of that date.. According to DOH, 820 assessments were completed after that date and before/on March 15, 2019. That adds up to 3,487 completed assessments.

Executive Summary

In this report, the Independent Reviewer attempted to assess the effect of the changes made by the Supplemental Agreement on the time for completion of each of the stages leading to transition, as well as their effectiveness in increasing the pace of transitions.

Despite the difficulties cited in this report with the recruitment and retention of assessors by some of the housing contractors, the result from consolidating assessment responsibility within the housing contractor agencies and eliminating the multiple transfers among different agencies for discrete tasks, which had been recommended by the Independent Reviewer,[2] has been a dramatic reduction in the median time to complete assessments by almost half. In doing so, the assessment bottleneck, which had slowed the entire transition process over the past several years, has been largely eliminated.

The new assessment process also seems to have reduced the number of instances in which class members are recommended for Level II placements or found not to have serious mental illness. These improvements in the assessment process have in turn shortened the time to complete other steps in the transition process, as depicted in Fig. 3. (p. 23) However, the ultimate outcome that is desired, transition to the community of class members who are qualified and willing, has not significantly improved in the last year. (Fig. 4, p. 30) In large part, the lengthy overall time from in-reach to transition is due to the continuing difficulty in locating housing that meets the expressed needs and desires of class members. Although the State has recently approved an increase in the amount of the rental payment for supported housing, it seems likely to have a modest beneficial effect. There are promising developments with the planned rollout of the Peer Bridger program, but that remains an unknown quantity.

The difficulties in fully staffing assessment teams at the housing contractor agencies, and the slow rollout of the Peer Bridger program have shortened the time during which class members will have had the benefit of these improvements before they have to make a critical decision of whether to opt in to the transition group or forever forego their opportunity to leave the adult home pursuant to the Settlement Agreement and Supplemental Agreement. That deadline is September 31, 2019. (Supplemental Agreement, G. 2.) The parties have recognized the need to extend this deadline and on February 6, 2019 jointly requested Judge Garaufis to extend the deadline to December 31, 2019 and extend the date for sending out a notice to class members from March 31, 2019 to June 30, 2019. Judge Garaufis issued a consent order granting the extension of time.

The Supplemental Agreement contemplates that the Court's jurisdiction to ensure compliance in this case will terminate on December 31, 2020 if the State has successfully

[2] E-mail from Independent Reviewer to the Parties, *Thoughts About Streamlining the Settlement Agreement Process*, July 27, 2017.

transitioned all eligible class members who are appropriate to be transitioned and has substantially complied with its other legal obligations. (Supplemental Agreement, H. 2)

The Supplemental Agreement creates an expectation that transitions will occur within 60 days of the HRA approval (Supplemental Agreement, B. 11). However, this rarely happens. Over the life of this case, the median number of days from HRA approval to transition has been 125 days. For the current report period and the 148 transitions that occurred, that median has increased to 160 days.[3] The recent Transition Metric Report also shows that the State fell far short of the number of transitions required to meet the metric. At present, the standard of compliance with the metric is 65% of the transition pool of class members with an HRA approval to transition. This standard is scheduled to increase to 85% and then 90%. As noted in the Transition section of this report, the pace of transitions has not changed much since the Supplemental Agreement, and it is unlikely to change as much as needed unless there are significant changes made to the manner in which appropriate housing is found and matched to class members' needs and desires. Moreover, based on the experience over the past five years, it is likely that a substantial subset of class members who have been recommended for transition to a Level II placement will continue to wait for openings to develop for such placements, unless there is a change in the number of beds available to class members. To this end, the Independent Reviewer has offered recommendations for increasing the availability of housing to meet the class members' needs, including Level II beds that remain in short supply.

This report also offers recommendations to strengthen the incident reporting, investigations and review requirements of the Supplemental Agreement. As discussed in the body of this report, the current requirements, which are limited to class members in the Adult Home Plus program, only cover approximately a quarter of the class members who have transitioned to community settings and, even for them, it is a time-limited service whose availability is reassessed six months after transitioning, and periodically thereafter. The remaining class members are not covered by these requirements, although in many cases they share the same housing and attend the same programs. The Independent Reviewer believes that a single system, covering all class members in the community would be simpler to communicate to all the frontline staff in the multiple agencies supporting class members, easier to train in, and most importantly, offer the same level of protection and oversight to all class members who have transitioned.

A draft of this report was provided to the parties and their comments on the draft have been considered in preparing this final report. The responses of the State to the recommendations contained in this report are summarized following each recommendation, and the full response is appended to the report.

[3] For the 136 transitions to supported housing, the median number of days was 157, while for the 12 transitions to Level II housing the median was 288 days.

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I. Introduction

This report assumes the reader's familiarity with the Settlement Agreement[4], which has been described, in previous annual reports.[5] In summary, the Settlement Agreement offers a class of approximately 4,000 persons with serious mental illness, residing in 22 specified adult homes in New York City, the opportunity to move to Supported Housing with necessary support services or to other appropriate community-based alternatives. Although this is the fifth annual report of the Independent Reviewer, it is the first such report being submitted since the Supplemental Agreement[6] became effective in March 2018.

The events leading up to the Supplemental Agreement and its major provisions were described in the previous annual report and will be referenced as necessary in subsequent sections of this report. For now, it is sufficient to note that the Supplemental Agreement resulted from a deep concern with the slow pace of transitions of class members from adult homes to Supported Housing and other community living alternatives, and the many obstacles and delays they encountered after expressing interest in leaving the adult home. The original Settlement Agreement did not have measurable benchmarks until July 2017 and 2018, four and five years respectively since the entry of the Settlement Agreement. In each of the previous four annual reports, the Independent Reviewer described significant problems with each of the several stages of transition from in-reach, assessments, person-centered planning, housing interviews and the limited choices of housing that created bottlenecks and obstacles to meeting the goals of the Settlement Agreement.

In an effort to speed up the process of transitioning from adult homes, the Supplemental Agreement adds a series of metrics to each stage of the transition process. It creates Quality Assurance processes to review this data, analyze outliers and engage in problem solving through a Case Review Committee with participation by all parties and the Independent Reviewer. It also streamlines the assessment process by consolidating responsibility for in-reach, assessment and housing within the housing contractor agencies, eliminating the back-and-forth transfer of responsibility for performing these tasks between multiple agencies, which was often the source of delays. Another major initiative is the creation of a Peer Bridger program that requires the deployment of a minimum of three full-time equivalent peer bridgers to each of the 22 transitional adult homes covered by the Settlement Agreement.

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[4] Stipulation and Order of Settlement, Doc. # 5, filed July 23, 2013 in 1:13-cv-04166-NGG-MDG.

[5] Annual reports have been filed previously as follows: Independent Reviewer's Annual Report, Doc. # 36, filed March 30, 2015, hereinafter "First Annual Report;" Independent Reviewer's Second Annual Report, Doc. # 63, filed April 1, 2016, hereinafter "Second Annual Report;" Independent Reviewer's Third Annual Report, Doc. # 102, filed April 3, 2017, hereinafter "Third Annual Report," and Independent Reviewer's Fourth Annual Report, Doc. # 145, filed April 2, 2018, hereinafter "Fourth Annual Report."

[6] Supplement to the Second Amended Stipulation and Order of Settlement ("Supplemental Agreement"), Doc. 196-1, filed March 12, 2018 in 1:13-cv-04166-NG-ST.

In this annual report, the Independent Reviewer will attempt to assess the effect of the changes made by the Supplemental Agreement on the time for completion of each of the stages leading to transition, as well as their effectiveness in increasing the pace of transitions. This effort is limited by the problems experienced in fully staffing the assessment teams in the housing contractor agencies, and in recruiting, training and deploying the numbers of peer bridgers required by the Supplemental Agreement during the period covered by this report. The comments on these two initiatives in this report should be viewed as preliminary and based on partial information, with a more detailed review and analysis to be provided when both programs are more fully operational. While awaiting the full implementation of these initiatives, the Independent Reviewer team undertook a review of a sample of class members who changed their minds about transitioning after having received Human Resources Administration (HRA) approval to do so, in an effort to gain some understanding of the factors influencing their decisions.[7] This review was a useful preparatory exploration of issues that surfaced later in the year when the Independent Reviewer conducted a review of the State's first Transition Metric Report, which is also required by the Supplemental Agreement.[8]

During the report year, the Independent Reviewer provided progress reports to the parties on other subjects pertinent to the implementation of the Settlement Agreement and the Supplemental Agreement. These reports will be discussed briefly as relevant, and the full reports are provided to the Court as appendices to this annual report.

II. Major Activities of the Independent Reviewer During the Year

This year, as in the past, the Independent Reviewer and his associates engaged in a variety of activities to monitor the implementation of the Settlement Agreement, as well as its March 2018 Supplemental Agreement, and to provide the State and Plaintiffs with information as early as possible to enable them to act as warranted to achieve successful implementation of the legal obligations. These activities informed the content of this annual report. Major activities in this regard included:

- Participation in training sessions and other informational meetings for staff of housing contractors, Health Homes, MLTCPs and peer bridger agencies.
- The conduct of five quality assurance and other reviews focused on incident review activities; the assessment process, as revised by the Supplemental Agreement; class members who have transitioned to Level II Housing; and class members who did not transition following HRA approval. Reports of these reviews are referenced in this annual report and, as appropriate, are appended to this report.

[7] A report of this review, Why Some Class Members Don't Transition, was shared with the parties on September 11, 2018, and is attached as Appendix B.

[8] Independent Reviewer's Final Report on Transition Metrics, Doc. #225 filed January 28, 2019 in 1:13-cv-04166-NGG. ("Transition Metric Report")

- Meeting with more than 250 class members during the conduct of focused reviews, visits to adult homes, follow-up on the distribution of notices of the Fairness Hearing, visits to post–transition residences, and educational, in-reach and assessment sessions.
- Reviews of assessments and care plans for nearly 400 class members through participation in pre- and post-transition calls with the State and provider agencies and participation in Case Review Committee meetings and calls.
- Routine communication with the Parties and Court through progress memos, meetings, telephone conversations and Court convened status conferences/hearings.

III. Class Size

The original Settlement Agreement defined a fixed class, with the intent to bar new admissions of persons with serious mental illness to the impacted adult homes. The Settlement Agreement references regulations of the New York State Department of Health (DOH) and the Office of Mental Health (OMH) which are designed to limit discharges of persons with serious mental illness from psychiatric hospitals into adult homes covered by the agreement, and to limit admissions of such persons into these homes. (Settlement Agreement, ECF. No. 23, p. 2) The regulations effectuating this intent have been subject to a prolonged Temporary Restraining Order since February 16, 2017, entered with the consent of the State, during which new admissions to these homes have continued.[9] Partly as a result, the class size has fluctuated over the years due to new admissions, transitions of class members to the community under the Settlement Agreement, non-transitional discharges and deaths. In each annual report, we attempt to fix the number of active class members to provide a context for the rate of progress in implementing the Settlement Agreement.

The initial certified class list contained 3,867 names, to which seven additional class members were added, for a total of 3,874, which was reported to the Parties and the Court on June 10, 2014 (Doc. # 30-1). The DOH has periodically updated the class list based on rosters that it receives quarterly from the adult homes reflecting admissions, discharges and deaths. Since March 2018, DOH has also been providing monthly data of newly admitted class members to the 22 transitional adult homes.

The most recent class list as of March 15, 2019, requested by the Independent Reviewer, contained a total of 6,816 names. However, since this list contains all persons who have ever been identified as a class member and does not remove names as people die, are discharged or are subsequently determined not to qualify for class status as they do not have a serious mental illness, or add the names of those who have transitioned under the Settlement Agreement but were subsequently returned to an adult home, it overstates the number of people who are eligible to be transitioned to Supported Housing or other alternatives pursuant to the Settlement Agreement.

[9] *Doe. v. Zucker*, Index. No. 07079/2016, Supreme Court, County of Albany. As discussed below on p. 10, the TRO was lifted n January 4, 2019, and the regulations are once again in effect.

Removing these leaves 3,151 "active" class members eligible for assessment and transition as of March 15, 2019, as displayed in Table 1 below.

Grand Total class members	6,816
Non-SA discharge	-1,870
Deceased	-659
Not a class member–no SMI	-377
SA transition	-806
SA transition but returned to adult home	+47
Current active class members	3,151

Table 1. Active Class Members

Most significantly, the Supplemental Agreement addressed the problem of an open front door to the adult homes by capping the class as of September 30, 2018. Persons with SMI admitted after that date will no longer be eligible for the benefits provided by the Settlement Agreement. The number of admissions to adult homes has been far out pacing the number of transitions through the Settlement Agreement both before the class cap and since. As noted above, since the inception of the Settlement Agreement, the number of admissions to the adult homes of individuals with SMI have been more than three times the number of transitions January 2019 there have been 446 class members admitted to the adult homes at an average rate of 41 per month, while there have been 148 transitions from March 16 to March 15, 2019, or an average of 12 per month. The State reported 99 deaths of class members from March 2018 through March 15, 2019. In addition, there were 372 discharges from the adult homes of class members that were not related to the Settlement Agreement, or more than two and a half times the number of those transitioned through the agreement during this period. Overall, deaths and non-transitional discharges far outpace the rate of Settlement Agreement transitions, as shown in Fig. 2 below.

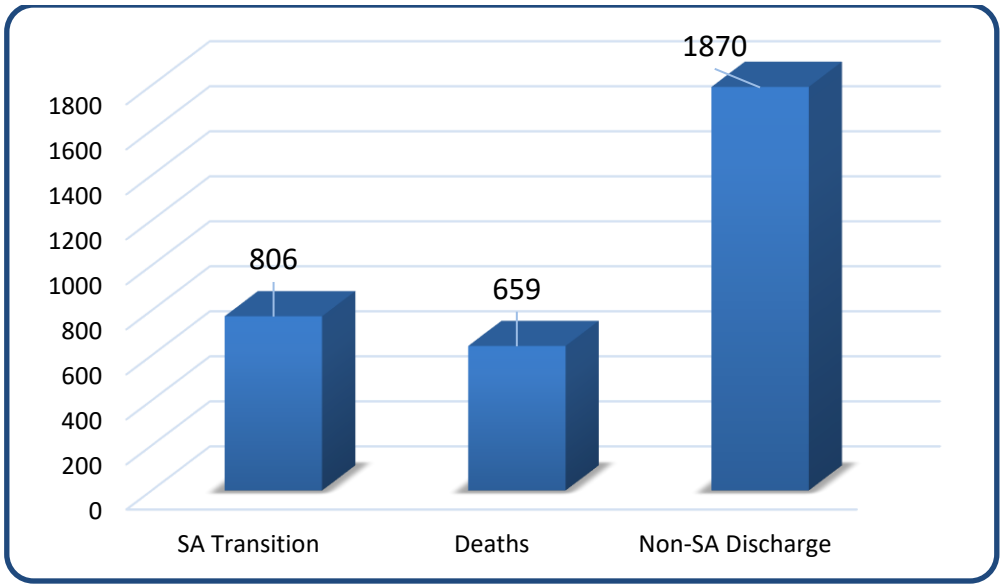

Fig. 2. Deaths, non-transitional discharges and settlement agreement transitions

Of note, the Temporary Restraining Order that had been in place since February 16, 2017, has now been lifted and the regulations barring new admissions to these adult homes are once again in place.[10] On January 25, 2019, the State DOH and OMH sent a notice to the affected adult homes and other providers informing them of the reinstatement of the regulations. (18 NYCRR Secs. 487.4(d) and 487.13 (c) and (g))

In addition to a class cap, the Supplemental Agreement also creates a deadline of September 30, 2019 for class members to state their desire to be assessed for transition under the Settlement Agreement. Failing to communicate this desire by the deadline absolves the State of the obligation to assess or transition these class members under the Settlement Agreement or the Supplemental Agreement. As other actions required by the Supplemental Agreement–including fully staffing assessment teams within housing contractors, and recruiting, training and deploying all the peer bridgers needed–are still in various stages of implementation and either have not met or are unlikely to meet the deadlines set in the Supplemental Agreement, the parties agreed to an extension of the Assessment Decision Date (Supplemental Agreement, G.2) to December 31, 2019, and a consent order to that effect was entered on February 7, 2019.

IV. Quality Assurance

As noted earlier, the initial 2013 Settlement Agreement contained few performance benchmarks or quality assurance mechanisms. The Supplemental Agreement addressed this in a number of ways. While the initial agreement specified only the number of assessments and transitions to be accomplished by July 2017 and July 2018, the Supplemental Agreement

[10] *Doe v. Zucker*, Doc. # 81 filed January 4, 2019 in Case 1:17-cv-01005-GTS-CFH (N.D.N.Y.).

prescribed, among other things, time frames for key stages in the transition process, i.e., the number of days between in-reach and assessment, between assessment and HRA application, between HRA approval and housing interview, etc. It established metrics for determining compliance with these process expectations. For example, all new admissions to adult homes must be in-reached within one month of their names being added to the Community Transition List, which is the updated list of class members; 85% of class members must be assessed within 60 days of referral and 98% within 120 days; etc.

The Supplemental Agreement also required the State to report its performance relative to these process metrics in monthly reports to the Plaintiffs and Independent Reviewer and in its Quarterly Reports to the Court. Most importantly, the Supplemental Agreement created metrics for determining compliance with expectations for transitioning individuals that is discussed in greater detail in the Transition section below.

The Supplemental Agreement also required the State to examine fidelity to the policies and processes for transitioning class members by reviewing samples of cases on a quarterly basis and reporting its findings to the Parties and the Court. Cases to be reviewed quarterly are: all transitioned individuals who request to return to an adult home or move to other community housing within six months of transition; a random sample of 10% of all assessments conducted; at least 12 person-centered plans chosen randomly from a cross-section of service providers; at least 12 randomly selected cases of individuals not transitioning to Supported Housing within six months of HRA approval; and at least 12 randomly selected residents who decline transition after being assessed.

Since the Supplemental Agreement went into effect, the State has been providing periodic reports on the metrics contained therein. While these reports provide date regarding the levels of compliance being achieved, they generally do not contain either an analysis of the causative factors that might explain the results or any conclusions pointing to the need for remedial actions in individual cases or on a systemic basis.

A. Case Review Committee

The Supplemental Agreement required the State to create a Case Review Committee (CRC) composed of representatives of the State, the Plaintiffs and the Independent Reviewer. The committee was charged with reviewing cases in which assessments result in determinations that an individual:

- is appropriate for community housing *other than* supportive housing (e.g., Level II OMH Housing or housing in the Office of Persons with Developmental Disabilities (OPWDD) or Office of Alcohol and Substance Abuse Services (OASAS) systems);
- should remain in the adult home; or
- is not seriously mentally ill.

Additionally, the CRC is to review all cases in which the class member or the Plaintiffs dispute the results of an assessment. Tasked with reviewing all assessment-related documentation to determine the accuracy of the assessment, the CRC may recommend that the assessor revise the assessment or, if the assessor is unwilling, cause a new assessment to be conducted by a qualified OMH clinician.

As of mid-December 2018, the CRC had reviewed the cases of 166 class members who were initially recommended for housing other than Supported Housing or to remain in the adult home, or who were found to not be seriously mentally ill. Recommendations for a reassessment were made in 50 cases. To assist in the CRC process, Plaintiffs retained expert clinicians to assist in their review of the approximately 300 assessments which resulted in a determination that the individuals were not seriously mentally ill and thus warranted CRC attention. Of the first 90 non-SMI cases reviewed by Plaintiffs' experts, it was agreed, after CRC discussion, that 12 would be referred for reassessment. The remainder of the approximately 300 cases is still under review.[11]

At the CRC's recommendation, DOH has initiated discussions with the New York State Office for Persons with Developmental Disabilities (OPWDD) and the Office of Alcoholism and Substance Abuse Services (OASAS) concerning class members whose assessments indicate the need for services from these agencies and discussed pathways for securing such services.

The CRC is also required to conduct a full review of any case not meeting the above referenced process metrics if requested to do so by the Plaintiffs or Independent Reviewer. The purpose of the review is to identify factors contributing to the delay in meeting the metric.

B. Interference/Discouragement by Adult Homes

During the report period, as noted in the in-reach section of this report, the Independent Reviewer followed up on reports of interference/discouragement by adult homes. In addition, the Independent Reviewer investigated reports of interference with mail delivery of notices regarding the Fairness Hearing on the Supplemental Agreement.

In early 2018, the Court determined to hold a Fairness Hearing to allow class members and other interested parties the opportunity to voice their opinion on the proposed changes the Supplemental Agreement would make to the original Settlement Agreement. The hearing was scheduled for June 18th and, in April, the Court approved language for a hearing notice that was mailed to each class member on April 30th. One month later, the State issued a Dear Administrator Letter to each adult home advising them of the Fairness Hearing and requiring them to post the hearing notice in a conspicuous location.

Despite these efforts, Plaintiffs reported hearing from residents at nine adult homes that there were problems with the posting or delivery of the hearing notice. The State visited the nine

[11] In addition to these reviews, the parties and the Independent Reviewer participate in periodic telephone conferences regarding class members who have assessment recommendations for Level II housing or to remain in the adult home. Some of these discussions result in reassessments as well.

homes and cited four for violations of regulations regarding delivery of mail to residents. The State also called adult homes to remind them of the requirement to post the fair hearing notice.

In light of these findings, Independent Reviewer staff visited the remaining 13 homes in early June, observed whether or not the notice was posted, met with administrative/supervisory staff to discuss and review policies on mail delivery, and interviewed nearly 150 residents. Approximately one-third recalled receiving the notice, the remaining either denied receiving it or could not recall. Even discounting for poor memories or other conditions that may have affected the reliability of the residents' reports, this low rate was a matter of concern. At two of the homes, it was noted that notices were not posted or not posted in their entirety. Following these visits, DOH visited additional adult homes and a total of 10 were cited for violations of regulations.

During the Fairness Hearing, the Independent Reviewer noted that DOH took reasonable action in response to the reports it received, but that the regulatory process of resolving citations or violations is slow and ponderous, and is not effective for time-sensitive matters, such as receipt of a notice so a class member could decide to participate in the hearing. The Independent Reviewer noted that it is extremely troubling that four years into the implementation of the original Settlement Agreement there are still such blatant attempts by some adult homes to interfere with the work being done to implement the agreement. As the Supplemental Agreement requires the presence of peer bridgers in adult homes at an even greater frequency than in-reach staff to assist class members in the transition process, the Independent Reviewer cautioned it will require zealous attention to ensure that their vital work can be performed without interference. We address this concern in the recommendations.

C. Follow-Up on the Fairness Hearing

A number of class members provided oral or written testimony in response to the Fairness Hearing notice. While some voiced support of the changes proposed in by the Supplemental Agreement, others took the opportunity to express concerns about the existing transition process and where they stand in it, conditions in the adult homes in which they currently reside, or conditions in Supported Housing apartments to which they had been transitioned. Based on the oral testimony, the Independent Reviewer provided a list of witnesses and their concerns to DOH/OMH, which was updated based on the written testimony received. The State followed up and an update on the status of these reports was filed with the Court in the State's 17th Quarterly Report.

D. Incident Reporting and Review

The Supplemental Agreement required that the State develop an incident reporting and review system, which the Independent Reviewer had previously recommended. Prior annual reports by the Independent Reviewer called for a robust quality assurance program to review serious untoward experiences of class members who have transitioned –to identify causes, implement remedial and corrective action, and disseminate the lessons learned to other providers of housing

and support services.[12] The need for such a program was further illustrated in the Independent Reviewer's July 2018 Progress Memo #8 which detailed the case of NB whose experiences and the conditions he endured following transition which prompted him to request a return to his adult home.[13] As of the preparation of this report, the Independent Reviewer can report that NB's circumstances have stabilized and he is reported by his personal advocate to be happy and well cared for in an Apartment Treatment Program.

It should be noted that the incident reporting requirements contained in the Supplemental Agreement apply only to class members who are enrolled in the Adult Home Plus care coordination program which has a 1:12 caseload ratio. Of the 774 class members who have been transitioned to the community pursuant to the Settlement Agreement, as of December 2018 only 179, or less than a quarter, are enrolled in this program and thus covered by the incident reporting requirements described below. Moreover, their enrollment in this program is time-limited for the first six months after transition, with periodic review thereafter to determine whether they continue to require this level of care coordination.

Within 60 days of the effective date of the Supplemental Agreement, the State was to evaluate the incident reporting policies and procedures of Health Homes, MLTCPs and housing contractors; and ensure that within 90 days of the effective date these entities promptly report to the State a list of defined incidents or conditions. The following were identified as triggers for reporting to the State:

a. Unsafe of unsanitary living conditions that jeopardize the ability of an individual to remain stably in Supported Housing, endanger his or her health and safety or result in death;
b. Death while living in Supported Housing;
c. Circumstances that jeopardize a transitioned individual's ability to remain in Supported Housing by placing him or her at risk of eviction;
d. Insufficient basic life necessities, including food or medications, which jeopardize the ability to remain stably in Supported Housing, endanger health and safety or result in death;
e. Repeated crisis episodes, including two or more Emergency Room visits or psychiatric hospitalizations within 12-month period; or
f. An individual's request to move back to an adult home or from Supported Housing to community housing other than Supported Housing.

The Supplemental Agreement required that the State investigate, analyze and make reasonable attempts to correct and prevent a recurrence of situations reported. It also required the State to notify the Plaintiffs and Independent Reviewer of the reports it receives including the name of the reporting entity, the type of incident, the outcome for the individual, any technical assistance

[12] See Second Annual Report, p. 100; Third Annual Report, pp. 74-75; Fourth Annual Report, pp. 79-80.

[13] The Progress Memo is appended to this report and the attachment is being filed with the Court under seal due to the discussion of protected health information therein.

or guidance offered to the Health Home, MLTCP or housing contractor and any remedial measures taken by the State and its contractors.

At the request of the Court during the December 2018 status conference, the Independent Reviewer initiated a review of the State's incident reporting and review related activities. The review is currently underway. However, preliminary findings indicate that the State has created an infrastructure for the receipt and review of reportable incidents; incidents are being reported; but it appears that few reviews have been completed and the vast majority of the reported cases have been in pending status for a considerable time. As of December 31, 2018, 27 incidents had been reported to the State and the State had completed reviews of six of the reported incidents; the remaining 21 incidents had been in pending status for anywhere from 25 to 185 days, or for a median length of time of 68 days. As of March 15, 2019, State reviews of these 21 incidents had not been completed.

As required by the Supplemental Agreement, the State informed the involved service agencies of their duty to promptly report the types of incidents enumerated in the Supplemental Agreement and prescribed the forms and mechanisms for doing so. It also established an Incident Review Committee consisting of representatives from DOH and OMH which meets twice weekly to review newly reported incidents and previously reported or pending cases. According to information provided to the Independent Reviewer, each case is assigned a lead reviewer who follows up on incidents and reports to the committee. The lead reviewer also generates and maintains an Incident Report Summary which, upon completion of a case, provides a summary of the incident; a list of the documentation gathered and reviewed; the findings developed from the documentation and discussions with relevant entities; an analysis which identifies the factors contributing to the incident and determines whether the matter is a one-time issue or indicative of broader systemic issues; the outcome for the class member; any technical assistance or guidance; and any remedial measures. The committee reviews the lead reviewer's work and considers whether relevant findings and outcomes are sufficiently comprehensive, whether the analysis sufficiently identifies the underlying causes of the incident and whether appropriate technical assistance and remedial measures, if any, have been identified and implemented. As part of this review the committee considers the need for corrective action on a systemic basis and guidance needed for all providers or a subset of providers.

As of December 31, 2018, 27 incidents had been reported to the State since June 19, 2018. More than one service entity can report an incident. Of the 27 reported, 26 were reported by six Health Homes; five by one MLTCP; and seven by six housing contractors. Table 2 presents the reported incidents by type.

Incident Type	Number of Incidents
Unsafe/unsanitary conditions	3
Death	3
Risk of eviction	1
Insufficient life necessities	2
Repeated crisis episodes	8
Request to move	5
Repeated crisis episodes and request to move	4
Repeated crisis episodes, unsafe conditions and insufficient necessities	1

Table 2. Types of Incidents Reported

V. Monitoring In-Reach

During 2018, the Independent Reviewer conducted: 1) targeted observations of in-reach activities in six transitional adult homes, and 2) several in-person and phone discussions with in-reach staff and their supervisors. This approach led to a series of observations focused on new and/or problematic conditions for in-reach staff as well as potential corrective actions. Key observations include:

- **Discouragement and interference by adult homes.** As in previous years, discouragement and interference by adult home administrators remained a challenge. A key form of interference was the lack of adequate, private space within adult homes for in-reach staff to meet residents. In some cases, this interference extended to attempting to limit in-reach staff's access to resident rooms. In one instance, the Independent Reviewer learned that New Gloria's Manor had rescinded permission to use the dining room for all settlement activities, including in-reach activities. This left no private or semi-private spaces available to in-reach staff to meet with residents. Although in-reach staff alerted the State on the day the adult home administration rescinded the space, and despite multiple investigative steps in the intervening months, the State did not take effective corrective action, allowing this condition to persist for approximately five months (October 2017 to March 2018). The Independent Reviewer learned of this case only after the adult home had restored use of the dining room in March 2018. Despite multiple requests, the Independent Reviewer has not received an adequate explanation of why the problem was allowed to persist for five months.

- **Resources for in-reach staff** Most in-reach staff reported adequate resources for their work. However, the Independent Reviewer found that in-reach staff from ComuniLife were working in the field (i.e., in adult homes, away from their office) with almost no technological resources.

No staff were provided with laptops or smartphones, and no staff had access to the Internet, such as through a wi-fi hotspot. According to staff reports, this absence of adequate technology in the field was a significant barrier to efficient use of their time. The Independent Reviewer communicated concern over under-resourcing in-reach staff to OMH on August 22, 2018, which in turn communicated with ComuniLife. While ComuniLife took several months to address this issue, by December 2018 in-reach staff reported they had smartphones for use in the field, and peer specialists had iPads for field use. Laptops have not yet been distributed to in-reach staff.

The March 2018 implementation of the Supplemental Agreement directly affected in-reach staff in two key ways:

- **Integration of housing contractor assessors with in-reach staff.** The Supplemental Agreement required housing contractors to assume responsibility for assessment activities for class members in adult homes they served by September 30, 2018 (see Section VII for details). The shift from TSI-NY assessments to housing contractor assessments impacted in-reach staff in largely positive ways. We observed several instances in which in-reach staff had to assume additional tasks to support assessor colleagues, such as taking on assessment scheduling duties for the assessors. However, we also observed in-reach and assessor staff collaborating to a degree not seen when TSI-NY was the sole, external assessor. Both in-reach and assessor staff reported that gaining internal agency continuity from in-reach to assessment resulted in clearer, more expeditious processing of class member cases. Thus, although the housing contractor assessor program is in its early stages, it seems to hold the promise of a more productive relationship between in-reach and assessor staff. As indicated in Fig. 3 in Section VII, the median number of days from in-reach to assessment completion for class members who have transitioned has been reduced by slightly more than 50%, from 250 days for members transitioning as of March 15, 2018 to 122 days for members transitioning by March 15, 2019.

- **In-reach staff and the Peer Bridger program.** The Supplemental Agreement required that the Peer Bridger program is to be fully implemented by March 2019, with initial steps toward program implementation commencing from March 2018 forward (see Section VI for details). The State has discussed these requirements with housing contractors as it is envisioned that peer bridgers will be assigned to work alongside in-reach staff in adult homes. However, the Independent Reviewer observed a persistent gap between information the State has shared with housing contractor management and information frontline in-reach staff received regarding peer bridgers. Throughout 2018, in-reach staff expressed uncertainty over the implementation of the Peer Bridger program. These uncertainties included: 1) Would in-reach staff be expected to train or supervise peer bridgers? 2) Would in-reach staff be expected to allocate and/or share their caseload with peer bridgers? 3) When would peer bridgers begin work in the adult homes? 4) Where in the adult homes would peer bridgers work, and would in-reach staff be expected to negotiate shared space with them? Additionally, peer specialists working within housing contractor in-reach staff expressed concern that their jobs would become redundant and/or eliminated once the peer bridgers began work.

The Independent Reviewer has expressed concerns about the timeline, space needs, and role expectations of the Peer Bridger program to the State. While we understand program implementation is in process, there is a need for increased communication about these aspects of the program with the housing contractor staff who will be most directly impacted by it, i.e., frontline in-reach staff. This communication should be ongoing, as in-reach staff have expressed that learning more about the Peer Bridger program in advance of its start would allow them to better prepare for it.

- **Information and communication gaps.** During 2018, the Independent Reviewer observed additional communication gaps between the State and in-reach staff. In-reach staff that were particularly concerned about their lack of information regarding the Supplemental Agreement, which impeded their ability to serve and support class members.

    - **Fairness Hearing notices.** In April 2018 the State mailed notices to the class members to inform them of the March 2018 Supplemental Agreement and June 2018 Fairness Hearing, at which class members could comment on the Supplemental Agreement. Additional notices were mailed out in May. The Independent Reviewer subsequently heard from in-reach staff that they had neither been informed of nor provided with copies of these notices. Because the in-reach staff are often "the face" of the settlement in the adult homes, they were approached by class members who were confused and anxious about the notices. For example, class members wondered if the notices indicated their rights under the settlement had been rescinded, and/or if they would have to start over again with a different transition process. Because in-reach staff had not been informed of nor had read the notices, they were ill-prepared to address class member concerns. In turn, some class member interest and trust in the transition process may have been affected because in-reach staff were not able to address their questions.

    - **CRC.** In the course of our in-reach review, it became apparent that there were a small number of class members whose statuses were unknown to in-reach staff for part of 2018. Upon further investigation, the Independent Reviewer learned that there was a communication gap when class members were referred to the CRC for review of their assessment recommendations. There was no regular process in place to assure that class members and their service providers were informed of the review, exactly what the review entailed, the timeline and/or if there would be a need to provide additional information they might have during the review. While this communication gap was expressed by multiple types of service providers (including Adult Home Plus care managers and housing contractor assessors), it impacted in-reach staff specifically because class members would see them in the adult home and ask for an update on their transition status. During the CRC review period, a class member might not be on the in-reach staff's active referral list, nor would their pending review be noted in their work

with him in other class member case files. In-reach staff thus had no information to share with class members, a situation frustrating for both parties.

The Independent Reviewer informed the State of both of these communication gaps (the Fairness Hearing gap in an August 2018 memo and the CRC gap in a November 2018 memo). While the Fairness Hearing communication gap was a time-limited issue, the potential for ongoing communication issues between the CRC and service providers persists. During a January 24, 2019 CRC conference call, the State indicated that it would examine this issue and the possibility of issuing a notice (FAQ) on the CRC process to all staff engaged in the transition process. In its March 19, 2019 response to a draft of this annual report, the State indicated that it is finalizing a FAQ on the CRC process which will be covered in future trainings with staff.

Finally, while most in-reach observations concerned conditions for in-reach staff themselves, in December 2018 the Independent Reviewer became aware of discouragement by a housing contractor, Federation of Organizations (FOO). FOO in-reach staff had informed multiple class members that they would no longer offer studios or one-bedroom apartments, contradicting class member rights under the settlement. At least two class members expressed reluctance to move after hearing this information. The Independent Reviewer learned that a FOO executive directive had been misinterpreted as applicable to the settlement class, which it was not. We informed both FOO and OMH about the misinformation and asked it to be corrected. However, despite agreeing to cease dissemination of this message and to correct previous misinformation, FOO staff continued to repeat misinformation about the availability of studio and one-bedroom apartments. The Independent Reviewer engaged in further advocacy in January 2019 to ensure FOO contacted misinformed class members and assured them they still had the right to move to a studio or one-bedroom apartment. We continue to monitor the impacts of this troubling form of discouragement, as it has the potential to erode class member confidence in their service providers, the settlement itself, and the decision to move to community-based housing.

VI. Monitoring Implementation of the Peer Bridger Program

Implementation of the Peer Bridger Program was to begin on the Supplemental Agreement Effective Date (March 12, 2018). One year following the start of the Supplemental Agreement (i.e., March 12, 2019) the Peer Bridger Program was to be available in all impacted adult homes. The State has contracted with two peer-run agencies, Community Access and Baltic Street to operate the program. The program provides for a minimum of three full-time peer bridgers (or their equivalent) to staff each of the 22 impacted adult homes. This requires hiring the equivalent of 66 full-time peer bridgers. More specifically, Baltic Street is responsible for hiring 30 peer bridgers and Community Access is responsible for hiring 36 peer bridgers. As of March 29, 2019, the peer-run agencies reported the following staffing numbers:

- **Baltic Street:** three supervisory staff hired or in place; 17 senior and line peer bridgers hired; eight senior and line peer bridgers in hiring process.

- **Community Access:** four supervisory staff hired or in place; 25 senior and line peer bridgers hired; eight senior and line peer bridgers in hiring process.

The two contracted agencies were not able to recruit, train and deploy the required number of peers to have the program fully operational in all 22 impacted adult homes by the March 16, 2019 deadline. However, at the end of January 2019, the peer-run agencies began a gradual roll out in select adult homes; by the March 16 deadline 8 impacted adult homes were staffed by at least two full-time peer bridgers; and by March 29, 21 impacted adult homes were staffed by at least 1.5 full-time peer bridgers. The remaining impacted adult homes should be staffed by at least two full-time peer bridgers by April 10. Both peer-run agencies report they are working to complete staffing and have three full time peer bridgers (or their equivalent) in all homes as soon as possible.

Initial monitoring by the Independent Reviewer. The Independent Reviewer has participated in meetings with the State, the two peer-run agencies, and other settlement service providers from June 2018 forward. In the course of other review activities (e.g., monitoring in-reach, reviewing the housing contractor assessment program) we have solicited information and opinions on the implementation of the program. We have offered ongoing feedback to the State based on our observations. The following includes key areas of program implementation we have identified, implementation activities to date, and our suggestions for ongoing work.

A. Training and Role of the Peer Bridgers

- **Training** According to the State, peer bridgers will be employed and trained by the peer-run agencies, receive additional training from OMH, and have "significant support and direction from the housing contractor agency staff and OMH." To date each peer-run agency offers a standard new hire orientation as well as a program-specific orientation to peer bridgers. The agencies are in communication with each other to foster continuity across their orientations, such that a peer bridger from Baltic Street is oriented similarly to a peer bridger from Community Access. The agencies are also coordinating a series of core trainings on topics such as motivational interviewing and Wellness Recovery Action Plans (WRAP), OMH has facilitated meetings that may offer opportunities to further this continuity, such as the kick-off Peer Bridger Discussion and bimonthly implementation meetings. Additionally, housing contractor leadership has been both informed of and asked for feedback regarding the implementation of the program, including at bimonthly OMH meetings and the Peer Bridger Discussion.

- **Peer bridger role.** OMH has defined the role of the peer to "Utilize their recovery-focused training to engage and support class members throughout the transition process." Flexibility is emphasized, allowing peer bridgers to engage class members based on individual needs and interests. Perhaps because of this emphasis on flexibility, the peer bridger role has not been precisely defined to date although several functions are listed in the Supplemental Agreement. (Supplemental Agreement, F.2.a) The State has facilitated several discussions on a potential range of tasks peer bridgers might undertake. These include: engaging class members who

change their mind about completing the assessment or overall transition process; leading class members on community outings; providing tailored support to class members immediately before and after transition; focusing on class members who have been difficult to engage through other efforts; etc. These discussions have also included some consideration for tasks peer bridgers should not undertake, such as serving as drivers or case managers for class members. As of January 2019, the State has further defined this role by identifying two priority populations for peer bridger work: class members not yet successfully engaged by the State who are at risk of missing settlement benefits, and class members nearing transition who need support.

B. Peer Bridger Work Environment

Work in the adult homes. This program will provide the most intensive service provision within the adult homes of any component of the settlement or Supplemental Agreement. Each of 22 homes will be staffed by three full-time peer bridgers (or their equivalent) who may be in the homes on weekdays, evenings, and/or weekends, as fits class member schedules. While this intensive in-home staffing offers the promise of increased engagement with class members, it also creates challenges for the peer bridgers themselves. Throughout the settlement both the State and Independent Reviewer have monitored and have had to intervene during many instances of discouragement and interference by the adult homes. The State is aware that the peer bridgers could also face discouragement and interference. In July 2018 the DOH issued a Dear Administrator Letter to the home administrators informing them of the program and their requirement to comply with it. Additionally, the peer-run agencies took the initiative to visit the adult homes prior to the program rollout to learn about supports and challenges that may be specific to each of these homes. Despite these efforts, the peer-run agencies have reported several incidents of potential discouragement and interference during their first weeks in some adult homes. In February 2019 the State updated and distributed a pamphlet on "The Rights of & Access to Adult Care Facility Residents" for peer bridgers to better understand how to handle such incidents. The State has also designated a single point of contact within the Office of Community Transitions to field discouragement and interference concerns from peer bridgers.

VII. Assessments

A. Overview/Background

The Supplemental Agreement, effective March 12, 2018, made changes to the assessment process that has long been a source of significant delays. As had been recommended by the Independent Reviewer, the main change was to consolidate responsibility for conducting assessments and filling out and submitting the HRA application within the housing contractor agencies and eliminating the fragmentation of responsibility among multiple agencies for performing these tasks. This fragmentation, and the passing of cases back-and-forth among multiple agencies was a significant source of delay in completing assessments, which in turn created cascading delays in other steps of the transition process.

The change in the responsibility for performing assessments was designed to be rolled out in two phases. Phase 1 housing contractors (Pibly, Staten Island Behavioral Network (SIBN), St. Joseph's Medical Center (SJMC), and Federation of Organizations (FOO)) were to start conducting assessments no later than April 1, 2018 and Phase 2 (ComuniLife, Institute for Community Living (ICL), Jewish Board of Family and Children's Services (JBFCS) and Transitional Services of NY, Inc. (TSI)) by September 12, 2018. TSI continued to conduct the assessments for the remaining four housing contractors and for the backlog until the Phase II housing contractors were up and running. The other change made was for housing contractors to use the New York City HRA 2010e form, which is used for all other housing applications, rather than the more specialized Community Mental Health Assessment form to complete the assessments.

A new metric was included in the Supplemental Agreement to reduce the timeframes for class members to be referred for assessment once they agreed to be assessed at in-reach or did not object, and for submission to HRA for approval. The early data since the adoption of the Supplemental Agreement supports the notion that consolidating these responsibilities within the housing contractor agencies has substantially shortened the time for completing assessments, obtaining HRA approvals and the overall time from in-reach to transition, as shown in Fig. 3 below. The median time to complete an assessment was cut by more than half, while lesser but substantial reductions were seen in all other steps in the transition process.

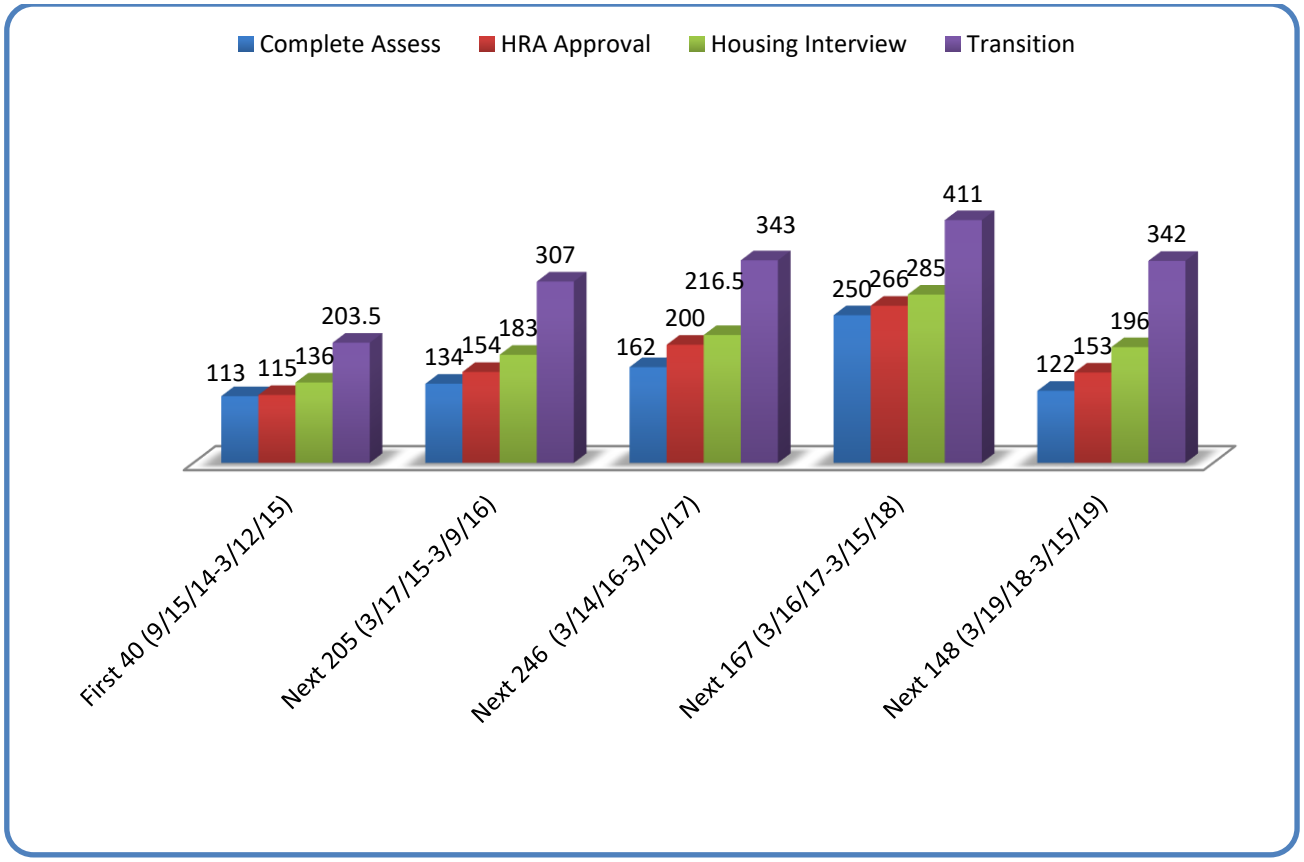

Fig. 3. Median days from in-reach to transition as of December 14, 2018

B. Housing Contractor Assessment Review

During this report period, the Independent Reviewer's staff undertook a review of the new assessment process. Independent Reviewer staff met with and/or interviewed the housing contractor assessors, and in some instances other staff, at the eight housing contractors to learn about their process, any challenges they may have had, and the adequacy of the training for the new assessors. Additionally, Independent Reviewer staff observed a total of 13 assessments conducted by six of the eight housing contractor assessment teams.

We began the review with the housing contractors who were part of the Phase 1 implementation (Pibly, SIBN, SJMC and FOO). They were reported to be fully operational by April 1, 2018 to complete assessments for class members who lived in adult homes that were covered by those housing contractors.

Since the Phase 2 housing contractors (ICL, ComuniLife, JBFCS, and TSI) were reported as being fully operational on September 16, 2018, the Independent Reviewer staff waited approximately two months after that date to begin its review so as to allow for some time for them to work out any initial implementation issues. However, Independent Reviewer staff learned that three of the four Phase 2 housing contractors did not have fully functioning assessment teams due to staff recruitment and retention problems (TSI, ComuniLife, and JBFCS.) As a result, we were not able to observe any assessments for two of the Phase 2 housing contractors (ComuniLife, TSI). While TSI had conducted some assessments, even with their staffing problems, ComuniLife had not submitted any completed assessments as of December 14, 2018. They subsequently reported having completed some assessments as of the close of this report.

C. Assessment Observations

General Practices

Housing contractor assessors were set up to be teams of two assessors-- an RN and a LCSW. (JBFCS was the exception and was to have two teams with two assessors each.) At least one housing contractor, SJMC, was using a License Mental Health Counselor instead of an LCSW. This was accomplished at all four Phase 1 and one Phase 2 housing contractors, and the process seems to be working well. The remaining three housing contractors (TSI, JBFCS and ComuniLife) reported that they either did not have a two-person team due to their lack of ability to hire staff (LCSWs) from the start (JBFCS, TSI,) or retention issues (ComuniLife), leaving only one RN assessor to complete the assessments at those three housing contractors. The JBFCS was able to hire a LCSW, who started doing assessments sometime in late November/early December 2018. Prior to that time, and for some class members since that time, one RN assessor conducted assessments on her own, and the Psychiatric Assessments were then reviewed and signed by an LCSW who did not interview the class member. JBFCS has not been able to hire staff for their second team to date and it was reported that they only have one LCSW conducting assessments as of the close of this report period. ComuniLife has also had some additional staffing changes since the time of the review, and is in the hiring process to complete their team of two assessors.

Despite these challenges, Independent Reviewer staff noted some general practices across most, if not all, of the assessment teams as reported by the assessors interviewed. Assessors indicated that OMH provided general guidelines for conducting the assessments, but that the specifics were left up the assessors. Most used resources provided by Center for Urban Community Services including the HRA 2010e template, and the outlines for completing a psychiatric summary and psychosocial assessment as guides for conducting the assessment. Some developed their own forms using those resources, and the RN assessors reported that they generally develop their own forms or "just know what to ask."

The housing contractors, which have both a LCSW and an RN, reported that they generally conduct the assessments together. Some also reported that there are some instances when they go separately, but that is the rare occasion (vacations, sick leave, etc.). However, one housing contractor assessment team routinely did not conduct the assessment as a team as a matter of practice (JBCS).

All the assessor teams stated that they never or rarely disagree with recommendations for housing, and if they do, they talk it out and come to an agreement.

All but one of the 13 assessments observed were completed well within the 60-day timeframe outlined in the Supplemental Agreement. Some assessor teams reported that they are generally able to meet the 5-day metric for submission of assessments to HRA. However, only one of the 13 assessments we observed met this metric, with times ranging from eight days to 56 days (Level II). The average number of days for submission was 27.6.

When assessors cannot meet the metric, it is usually due to needed follow-up or need for additional information, mostly from outside medical providers, to complete the assessment, or when a recommendation for Level II Housing is being considered. Those cases trigger a review by OMH and then a Level II call and CRC review, if the recommendation is to proceed. However, staffing issues were a factor for JBFCS and CommuniLife.

Assessments were approved by HRA within one to 10 days, with an average of 4.45 days for approval.

Other common practices noted were:

- The use of use an electronic calendar system, which allows the in-reach team to schedule an assessment on the same date a class member says "yes" to being assessed. Assessors reported that assessments are usually scheduled within one to three weeks, and they use that time to gather needed records/documents to assist them with completing the assessments.
- Contacting class members ahead of time to remind them of their appointment. There was one assessor team that did not do this, though they stated that it was rare that the class member was not available on the day of the assessment (JBFCS).

- The use of an in-house staff person proficient in the class member's language to translate or the use of the language line for class members who have limited English language ability. One assessor also said she had used Google Translate to assist with the assessment.

Obstacles

Recognizing the length of time between the two phases, and the difference in time that the housing contractors had begun the new assessment process, some of the findings of the review distinguish between the two phases. However, there were common challenges noted across all the housing contractors.

- All spoke about needing to build a rapport with adult home staff in order to get the cooperation and information they need from them. This has had varying levels of success depending on the adult home.
- All housing contractors cited problems getting records in a timely manner from certain adult homes they cover. Specifically, they mentioned that they had to make requests multiple times. These issues seemed to continue in the adult homes where this was a problem with previous assessors.
- Assessors cited the lack of quantity and quality of the adult home records as a challenge and causes them to have to seek out information from other sources.
- Assessments and HRA approvals are happening more quickly but there is a bottleneck in waiting for desired housing stock to become available, particularly one bedrooms and apartments on the ground floor or in a building with an elevator.
- The assessors reported that the in-reach team is responsible for sending the in-reach forms with the assessment date to the Health Homes to notify the care coordinators, if there is one assigned. Most of the assessors stated they often do not know if someone has a care coordinator unless they are contacted by them or they show up for the assessment. It should be noted that the Supplemental Agreement requires that class members be referred for assessment within five business days of in-reach (Para. B. 2. b) while it allows between 60-90 days for enrollment in Adult Home Plus care coordination at a 1:12 ratio (*Id*. B.2.e) . As a result, if assessments are conducted speedily, it is likely that class members may not yet have been enrolled or had a care coordinator assigned.

Observations

Independent Reviewer staff observed 13 assessments conducted by six of the eight housing contractors across ten different adult homes. As noted above, we were unable to observe assessments by two housing contractors due to their staffing problems (TSI, ComuniLife).

Overall, the observations of the assessor teams conducting the assessments were positive. It was clear that each had set up systems that worked best for them. There was some variance in how the assessor teams delineated roles. In some cases, the LCSW took the lead and the RN only asked

medical or medication related questions, while other teams worked more as a team, with both taking on different aspects of the assessments. It was clear that the teams worked out a system that worked out best for them, with enough flexibility to change things up as needed to accommodate how the class member may have been responding to one assessor or the other.

All the assessors observed, were courteous and respectful and described the process and why they were meeting with the class member, however, all did not explain what they could expect to happen after the assessment. The assessments did not always occur in private spaces. Some of the adult homes either do not have a private space available or were unwilling to provide private spaces for assessments. Many were held in dining rooms while staff were setting up the room for a meal or cleaning up after a meal, which led to noise and could be somewhat distracting, or other areas where other people could come and go. Though these options were not ideal, in most cases it did not seem to affect the class member being assessed or the assessors in any significant way.

Seven of the 13 class members whose assessments were observed had been newly admitted to the adult home and were in-reached and assessed in less than three months (one was closer to four months) from the time of their admission.

We received the completed HRA packets for all of the 13 assessments observed. All but one were approved for Supported Housing. The AH + Care Manager was only present at three of the assessments observed. This may be due to them not being assigned yet for the class members who were newly admitted to the adult home, and the shortened time between in-reach and assessments. However, many of the assessors were not aware if the person had an AH + CM.

Training

Most of the assessment teams indicated that they had participated in all the required trainings that were set up specifically for the new housing contractor assessment teams. These included a series of on-line trainings, HRA training (using the 2010e form), a training on the CAIRS system, as well as internal agency-specific trainings. They also had an opportunity to attend a training provided by OMH on September 12, 2018. Most assessors stated that they felt the trainings were good and assisted them with doing their jobs as assessors. They all specifically mentioned that the training on motivational interviewing was very good. They also all stated that the weekly calls with OMH were very helpful to them to discuss any questions or case specific issues they were having, and to discuss Level II Housing recommendations.

However, there were some suggestions made for improvements in the trainings or where they felt added trainings would be beneficial. Those included: more hands on/interactive trainings; a guidance tool for navigating through PSYCKES; more guidance on the HRA requirements in terms of the substance for the submissions; and more guidance on various housing options and related services.

Additionally, the Independent Review staff question whether the same level of training was provided to the Phase II housing contractors as the Phase 1 housing contractors based on their

responses to Independent Reviewer staff questions. For example, one housing contractor's assessors stated they did not know that certain information needed to be included in the HRA submission (JBFCS), which led to HRA asking for more information. Also, the LCSW, who started a couple of months after the RN, stated she had not received HRA training and was "self-taught." These issues were brought to the attention of OMH. Another RN assessor stated she is doing the full range of assessment activities alone although she has missed some training opportunities including HRA training, does not have access to PSYCKES and did not have a laptop or smart phone until December 2018. (ComuniLife). These reports are consistent with what we heard from in-reach staff at this agency.

D. Assessment Data

There were a total of 820 completed assessments during this report period: 586 new assessments (71 percent) and 234 backlog cases (29 percent). The Assessor Contractor, TSI, was responsible for handling the majority of the backlog cases (75 percent). (Table 3)

Backlog

At the start of this report period there were a total of 234 backlog cases, 175 (75 percent) were assessed by the Assessor Contractor and 59 (25 percent) by the housing contractors. As reported in the State's quarterly report (# 16), the majority of the backlog (85 percent) was completed by July 16, 2018. The remainder did not have closed out assessments due to extended stays in a skilled nursing facility, were assessed after the date, had not been submitted to HRA, or qualified for a two week pause due to refusals to be assessed. The total backlog was completed by October 3, 2018.

Total Assessments	Total	Backlog	New in-reaches
	820 (100%)	234 (29%)	586 (71%)
Assessor Contractor	399 (49%)	175 (75%)	224 (38%)
Housing Contractor	421 (51%)	59 (25%)	279 (62%)

Table 3. Assessments Done by Type and Assessment Entity

Outcomes of Completed Assessments

Of the 820 assessments completed during this report period, the Assessment Contractor (TSI) completed 399 (49 percent) and the housing contractors under the new process completed 421 (51 percent). There were some positive trends in the recommendations for Supported Housing under the new assessment process with the housing contractors. While more than half (51 percent) of the class members assessed during this report period were recommended for Supported Housing overall, there was a much higher rate by the housing contractors (65 percent) than by the Assessor Contractors (36 percent). The overall rate increased from 37 percent last year to 51 percent.

There were also fewer recommendations for Level II Housing. Overall, only four percent of the class members were recommended for Level II Housing, which was a substantial decrease from

last year (9.5 percent). Additionally, the housing contractors recommended Level II at a lower rate than the Assessor Contractors (3 vs. 5 percent).

There was no significant change in the rates of individuals being assessed as not having a serious mental illness (11 vs. 13 percent). Additionally, there were nine people (1 percent) assessed by the Assessor Contractor to remain in the adult home. (Table 4)

It should be noted that that there is a requirement that housing contractor assessors consult with OMH on any case where a Level II recommendation is being considered, and if it is recommended, it is reviewed by the CRC. Additionally, anybody who is assessed as not having an SMI or to remain in the adult home, is also reviewed by the CRC.

There continued to be a high rate of class members refusing to be assessed. Nearly one-third (32 percent) of the class members who said yes to being assessed at in-reach, declined to be assessed at the time of their assessment, or missed their appointment at least three times. However, the rate of declinations was much lower for the housing contractors than the Assessor Contractor (21 percent vs. 43 percent). Table 4.

	Annual Report Year Ending 3/15/19			Annual Report Year Ending 3/15/18
	Total	Assessing Contractor	Housing Contractor	AssessingContractor
Total Assessments	820	399	421	1,298
Outcomes				
Supported housing	418 (51%)	144 (36%)	274 (65%)	481 (37%)
OMH licensed housing	33 (4%)	21 (5.0%)	12 (3%)	123 (10%)
OPWDD housing	1 (0.1%)	1 (0.3%)		7 (0.5%)
Remain in Adult Home	9 (1%)	9 (2%)		16 (1.2%)
No diagnosis of SMI	99 (12%)	52 (13%)	47 (11%)	183 (14%)
Declined	260 (32%)	172 (43%)	88 (21%)	484 (37%)
OASAS housing				3 (0.2%)
Other housing				1 (0.1%)

Table 4. Assessments by Outcomes and Assessing Entity

Refusals and Referral to Peers

During this report period there were 260 class members who refused to be assessed after they had agreed to be assessed at in-reach. There were 200 instances of class members being referred for peer engagement; however, only 18 percent agreed to be assessed after the peer engagement. The remainder had their assessment closed out (38 percent); continued to decline to be assessed (37 percent); or the class member was in the hospital or could not be located by the peer (3 percent). (Table 5)

Outcome of Peer Efforts	Number	Percent
Closed out assessment	77	38%
Continued to decline	74	37%
Assessment Rescheduled/or agrees to be assessed	36	18%
Peer unable to locate	4	2%
In the hospital	2	1%
Blank/Unknown	5	2%
Moved to Another AH	2	1%
Total	**200**	**100%**

Table 5. Outcome of Peer Engagement

There were also 173 class members who changed their mind about proceeding with transitioning after they were assessed.

VIII. Transitions

During the annual report period, 148 class members transitioned from adult homes to Supported Housing or other community-based living. The pace of transitions has not changed appreciably since the adoption of the Supplemental Agreement. (Fig. 4)

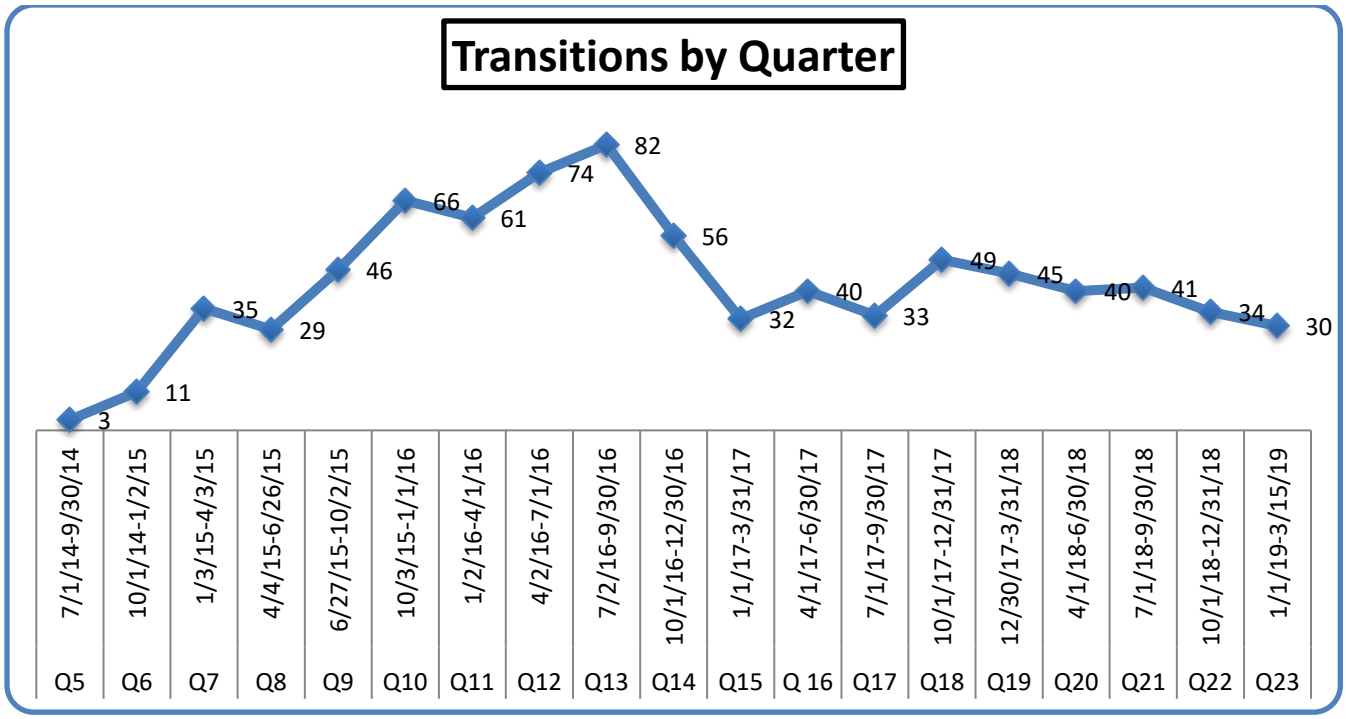

Fig. 4. Class members' transitions, by quarter

One of the significant changes incorporated into the Supplemental Agreement is a transition metric that requires reporting by the State of class members' transitions every six months. The

Supplemental Agreement creates a formula for the number of transitions required in each six-month period, as well as criteria for excluding class members from the calculation for compliance purposes. It also requires a review and report by the Independent Reviewer of each instance of a claimed exclusion of a class member based on enumerated criteria in the Supplemental Agreement. (Supplemental Agreement, ¶ C) The Independent Reviewer's Transition Metric Report for the first six-month period, which covered from March 1, 2018 to August 31, 2018, was filed with the Court on January 28, 2019.[14] In summary, the State fell substantially short of the number of transitions required to be completed during the period and conceded that that the results were insufficient to establish compliance with the transition metric. The Independent Reviewer also reviewed a 20% sample of cases in which the State claimed an exclusion from the compliance calculation and agreed with the claim in about two-thirds of the cases and disagreed in the remaining cases.

Among the issues cited frequently in a claim for exclusion from the transition metric calculation was the difficulty that housing contractors experienced in finding studio/one-bedroom apartments for class members who expressed that preference. Another was the limited supply of Level II[15] beds available to the class. We addressed these issues in the context of specific cases that were included in the Transition Metric Report. For this annual report, we sought additional information on the availability of these housing options, to put the findings of the Transition Metric Report into a broader perspective. In response to a request for information, the OMH reported the following distribution of class members who transitioned from adult homes between March 17, 2018 and March 15, 2019, by housing contractor.

Housing Contractor	One-Bedroom or Studio	Two or (Three) Bedrooms	Level II Housing	Total Transitions
ComuniLife	0 (0%)[16]	8	1	**9**
Fed. of Org	6 (43%)	6 (3)	2	**18**
ICL	0 (0%)	9	1	**10**
JBFCS	14 (48%)	15	2	**31**
Pibly	26 (87%)	4	1	**31**
SIBN	10 (42%)	14	2	**26**
SJMC	9 (82%)	2	0	**11**
TSI	3(33%)	4(2)	3	**12**
TOTAL	**69 (51%)**	**67**	**13**	**148**

Table 6. Transitions by Housing Contractor & Type (3/17/18-3/15/19)

[14] Independent Reviewer's Final Report on Transition Metrics, Doc. #225 filed January 28, 2019 in 1:13-cv-04166-NGG.

[15] Level II Housing refers to other types of OMH housing, including Community Residence-Single Room Occupancy (CR/SRO); Congregate Treatment; and Apartment Treatment.

[16] (%)= the % of Supported Housing apartments that were acquired during this period that are single occupancy

These data indicated considerable variability in the placement of class members into studio or one-bedroom apartments across housing contractors. Although 51% of those who moved to Supported Housing during this period moved to one-bedroom or studio apartments, 35 of the 69 class members, or 51%, transitioned with Pibly and SJMC. By contrast, ComuniLife (8) and ICL (9) transitioned ***none*** of their 17 class members who moved to supported housing to single unit housing.

The relatively low numbers of class members moving to Level II Housing is consistent with historic data in this initiative. According to OMH data, since the inception of the Settlement Agreement, 44 class members have transitioned to Level II Housing, although as of March 15, 2019, 175 class members had received recommendations and HRA approval for such housing. It is clear that additional efforts are required to enable all class members who are qualified and willing to be transitioned to the least restrictive appropriate community housing, consistent with the Settlement Agreement's requirement. By type of housing, the data submitted indicated the following for the 44 who transitioned: Apartment Treatment (13); Congregate Treatment (17); and CR/SRO (14).[17]

IX. Conclusion

In this report, the Independent Reviewer attempted to assess the effect of the changes made by the Supplemental Agreement on the time for completion of each of the stages leading to transition, as well as their effectiveness in increasing the pace of transitions.

Despite the difficulties cited in this report with the recruitment and retention of assessors by some of the housing contractors, the result from consolidating assessment responsibility within the housing contractor agencies and eliminating the multiple transfers among different agencies for discrete tasks, which had been recommended by the Independent Reviewer, has been a dramatic reduction in the median time to complete assessments by almost half. In doing so, the assessment bottleneck, which had slowed the entire transition process over the past several years, has been largely eliminated.

The new assessment process also seems to have reduced the number of instances in which class members are recommended for Level II placements or found not to have serious mental illness. These improvements in the assessment process have in turn shortened the time to complete other steps in the transition process, as depicted in Fig. 3. (p. 23) However, the ultimate outcome that is desired, transition to the community of class members who are qualified and willing, has not significantly improved in the last year. (Fig. 4, p. 30) In large part, the lengthy overall time from in-reach to transition is due to the continuing difficulty in locating housing that meets the expressed needs and desires of class members. Although the State has recently approved an increase in the

[17] On October 6, 2018, the Independent Reviewer submitted a Progress Report to the parties describing the different types of Level II programs and the services provided by each, as well as the experiences of 10 class members who had been admitted to these programs. That report is attached as Appendix D.

amount of the rental payment for supported housing, it seems likely to have a modest beneficial effect. There are promising developments with the planned rollout of the Peer Bridger program, but that remains an unknown quantity.

The difficulties in fully staffing assessment teams at the housing contractor agencies, and the slow rollout of the Peer Bridger program have shortened the time during which class members will have had the benefit of these improvements before they have to make a critical decision of whether to opt in to the transition group or forever forego their opportunity to leave the adult home pursuant to the Settlement Agreement and Supplemental Agreement. That deadline is September 31, 2019. (Supplemental Agreement, G. 2.) The parties have recognized the need to extend this deadline and on February 6, 2019 jointly requested Judge Garaufis to extend the deadline to December 31, 2019 and extend the date for sending out a notice to class members from March 31, 2019 to June 30, 2019. Judge Garaufis issued a consent order granting the extension of time.

The Supplemental Agreement contemplates that the Court's jurisdiction to ensure compliance in this case will terminate on December 31, 2020 if the State has successfully transitioned all eligible class members who are appropriate to be transitioned and has substantially complied with its other legal obligations. (Supplemental Agreement, H. 2)

The Supplemental Agreement creates an expectation that transitions will occur within 60 days of the HRA approval (Supplemental Agreement, B. 11). However, this rarely happens. Over the life of this case, the median number of days from HRA approval to transition has been 125 days. For the current report period and the 148 transitions that occurred, that median has increased to 160 days.[18] The recent Transition Metric Report also shows that the State fell far short of the number of transitions required to meet the metric. At present, the standard of compliance with the metric is 65% of the transition pool of class members with an HRA approval to transition. This standard is scheduled to increase to 85% and then 90%. As noted in the Transition section of this report, the pace of transitions has not changed much since the Supplemental Agreement, and it is unlikely to change as much as needed unless there are significant changes made to the manner in which appropriate housing is found and matched to class members' needs and desires. Moreover, based on the experience over the past five years, it is likely that a substantial subset of class members who have been recommended for transition to a Level II placement will continue to wait for openings to develop for such placements, unless there is a change in the number of beds available to class members. To this end, the Independent Reviewer has offered recommendations for increasing the availability of housing to meet the class members' needs, including Level II beds that remain in short supply.

This report also offers recommendations to strengthen the incident reporting, investigations and review requirements of the Supplemental Agreement. As discussed in the body of this report, the current requirements, which are limited to class members in the Adult Home Plus program, only

[18] For the 136 transitions to supported housing, the median number of days was 157, while for the 12 transitions to Level II housing the median was 288 days.

cover approximately a quarter of the class members who have transitioned to community settings and, even for them, it is a time-limited service whose availability is reassessed six months after transitioning, and periodically thereafter. The remaining class members are not covered by these requirements, although in many cases they share the same housing and attend the same programs. The Independent Reviewer believes that a single system, covering all class members in the community would be simpler to communicate to all the frontline staff in the multiple agencies supporting class members, easier to train on, and most importantly, offer the same level of protection and oversight to all class members who have transitioned.

X. Recommendations

Following each of the recommendations below, the Independent Reviewer has summarized the State's response. The State's full response, as well as the comments of the Plaintiffs on a draft of this report, are attached as Appendices E and F respectively.

I. Housing

a. The Supplemental Agreement requires the State to ensure that housing contractors make all reasonable efforts to transition class members within 60 days of HRA approval into Supported Housing or other community housing consistent with the individual's needs hopes and desires. If that does not occur within 60 days, the Housing Contractor is required to continue to make all reasonable efforts to transition the individual. Few, if any, class members transitioned within this time frame in part, due to the limited availability of housing. While there are eight housing contractors participating in serving class members under the Settlement Agreement, there is a much larger pool of housing contractors in the region. For any class member who has not found housing meeting his/her expressed needs and preferences within 120 days of a housing interview, the Independent Reviewer recommends that the State should require that a request for proposals for housing meeting the class member's needs and preferences be circulated to all qualified housing contractors providing housing within the area of preference. If the class member consents to an offer of housing as a result of this process, responsibility for housing and the associated funds should be transferred to the successful housing contractor.

The State does not believe this proposal can be implemented as described but agrees with the general idea of seeking flexibility to work with other housing providers to meet individual class member preferences. The State will provide a further response by April 7, 2019.

b. To address the protracted shortage of Level II Housing available to class members who have been approved by HRA for such housing, the State should consider

authorizing an increase of at least 50 Apartment Treatment beds as a resource for the class using funds available for the implementation of the Settlement Agreement. The intent is for these beds to serve as permanent housing for class members, with the intensity of supervision and support services being reduced or withdrawn as a class member's needs change. In essence, these Apartment Treatment beds could convert into traditional supported housing over time but would be immediately available to meet class members' needs for supervised housing upon transition from an adult home.

The State will provide a further response by April 7, 2019.

II. Incident Reporting

a. The State should extend the existing incident reporting requirements created pursuant to the Supplemental Agreement to all class members who have been transitioned to the community for the duration of active judicial supervision of the class.

The State does not agree with this recommendation but agrees to identify additional supports for class members not covered by the incident reporting requirements.

b. The State should establish a 60-day metric for completion of its review of reported incidents and investigations. Cases that remain open past the 60-day deadline should be reported on a monthly basis to the CRC, along with the reasons why they remain open.

The State agrees.

III. State Monitoring and Enforcement Activities

a. The State should require each transitional adult home to submit a written plan addressing available space and access to class members for confidential conversations to enable in-reach staff, assessors and peer bridgers to perform the functions required by the Settlement Agreement and the Supplemental Agreement.

The State agrees.

b. Any adult home that has two or more substantiated instances of interference or discouragement should be reported to the Court for appropriate action for violation of a court order.

The State is prepared to refer an adult home to the Court "in appropriate circumstances."

c. The State should take enforcement action against any adult home that repeatedly creates unreasonable delays in providing documents required by assessors that are within its custody.

The State agrees.

d. The State should review the current requirements, timeline and process for completing preemployment background checks for staff who are being hired to perform functions required by the Settlement Agreement or Supplemental Agreement, including screening by the Justice Center and the State Central Register for Child Abuse, with a view to prioritizing and expediting these processes, if they are required.

The State has successfully expedited this process for the peer agencies.

e. The State should require and ensure that all personnel providing in-reach, assessments, care coordination, case management and peer bridger services are fully trained in the requirements of the Settlement Agreement and the Supplemental Agreement; in the services and supports available for different types of housing available to class members; and, for those whose functions require it, in the use of PSYCKES and the preparation of HRA applications.

The State agrees.

f. The State should ensure that all frontline staff engaged in implementing the Settlement Agreement and Supplemental Agreement are informed about the Case Review Committee process, and that case managers, care coordinators and in-reach staff in adult homes are informed when class members on their caseloads are referred to the CRC.

The State agrees.

g. The parties should review the current reporting requirements for process metrics in the Supplemental Agreement in light of experience to date and consider amending/eliminating reporting that is duplicative or unnecessary as the information is otherwise available in the quarterly and other reports.

The State agrees and has prepared a proposal for review by the Plaintiffs and the Independent Reviewer.

IV. Peer Bridgers

In addition to the above recommendations that are applicable to peer bridgers, we also recommend specifically for this program that:

a. The State should coordinate with the peer-run agencies to ensure all peer bridgers receive standardized training on the Settlement Agreement, Supplemental Agreement, and adult home system, all of which are outside of the scope of typical peer specialist work. We also encourage increased involvement of frontline housing contractor staff, particularly in-reach peers, in the training process.

The State agrees.

b. The State should train peer bridgers on how to identify incidents of discouragement and interference in impacted adult homes, and to whom to report them. It is imperative that the State support the peer-run agencies in seeking help for "reportable" or more serious incidents as well as incidents that may not reach the "reportable" threshold but nevertheless impede access to and work with class members.

The State agrees.

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Appendix A. Table of Acronyms and Abbreviations

Acronym/Abbreviation	Meaning
ACT	Assertive Community Treatment
ADL	Activity of Daily Living
AH	Adult Home
AH+ CM	Adult Home Plus Care Manager
AHRAR	Adult Home Resident Assessment Report
CAIRS	Child and Adult Integrated Reporting System
CBC	Coordinated Behavioral Care
CC	Care Coordinator
CIAD	Coalition of Institutionalized Aged and Disabled
CM	Care Manager
CMA	Care Management Agency
CMHA	Community Mental Health Assessment
CR-SRO	Community Residence–Single Room occupancy
CTC	Community Transition Coordinators
CTL	Community Transition List
CTP	Community Transition Program
DAL	Dear Administrator Letter
DOH	New York State Department of Health
FOO	Federation of Organizations
HC	Housing Contractor
HCS	Health Commerce System
HH	Health Home
HHA	Home Health Aide
HRA	Human Resources Administration
IAH	Impacted Adult Home
ICL	Institute for Community Living
JBFCS	Jewish Board of Family and Children's Services
MFJ	Mobilization for Justice
MH	Mental Health
MLTCP	Managed Long Term Care Plan
OASAS	New York State Office of Alcohol and Substance Abuse Services
OMH	New York State Office of Mental Health
OPWDD	New York State Office for Persons with Developmental Disabilities
PROS	Personalized Recovery Oriented Services
PSYCKES	Psychiatric Services and Clinical Knowledge Enhancement System

QA	Quality Assurance
SA	Settlement Agreement
SIBN	Staten Island Behavioral Network
SMI	Serious Mental Illness
SSA	Social Security Administration
SSI	Supplemental Security Income
TSI	Transitional Services for New York, Inc.

Appendix B Report On Class Members Who Did Not Transition

Why Some Class Members Don't Transition

Introduction

In 2018, the Independent Reviewer conducted a focused review to shed more light on the reasons why some class members, having gone through the in-reach, assessment and HRA approval process, do not transition.

Ten class members were included in the review. They were drawn from two sources:

- In preparation for the Independent Reviewer's Fourth Annual Report, the Office of Mental Health (OMH) provided a list of class members who had submitted and then rescinded 30-day notices of their intent to move from their adult homes between March and December 2017. Of the 28 people on the list, notes indicated that most had subsequently transitioned or were working on such (e.g., looking at different apartments, etc.). Four, however, were noted as having been referred back to the in-reach or assessment phase of the process. These four were selected as possible class members in the Independent Reviewer's sample.
- Weekly Report 204 (ending 2/9/2018) was the second source. The report indicated that between July and September 2017, 86 class members were approved by HRA for Supported Housing. As of February 2018, most were in the housing referral stage and 28 had moved forward and been transitioned. Thirteen, however, were noted to have declined transition and/or were back in the in-reach and assessment phases of the process. These 13 were included as possible sample class members.
- Of the 17 possible sample class members, 10 were chosen for inclusion in the review. Their choice was not purely random; logistics, such as where they were living, were also considered. The 17 class members lived in 12 different adult homes. The Independent Reviewer selected 10 who were living in six homes during the period under review.

During the review, Independent Reviewer staff read assessment-related records (e.g., AHRARs, Comprehensive Psychiatric Evaluations, Psycho social summaries, etc.), Housing Contractor (HC) CAIRS notes provided by OMH, Health Home/Care Management Agency (CMA) records and notes provided by the DOH Office of Community Transitions.

The Independent Reviewer's team also interviewed the 10 class members. Interviews occurred between April and August 2018. In many cases, the interviews were critically important to understanding the class member's perspective on matters reported in the record.

Findings are presented in the next section. Case summaries of the 10 individuals cited at various points in the findings section are presented beginning at page nine.

Findings

1. Basic Demographics and Some Statistics

The 10 class members in the sample consisted of four women and six men. They ranged in age from 52 to 81 years old; their median age was 67 years old. Two were in their 50s; three in their 60s, three in their 70s and two in their 80s.

The individuals lived in six adult homes: Brooklyn Adult Care Center, Brooklyn Terrace (formerly Surf Manor), Central Assisted Living, Mariners Residence, Oceanview Manor and Seaview Manor. Their lengths of stays in these homes ranged from 3 to 25 years and the median length of stay was 13 years. Five of the individuals were known to have lived previously in residential settings: three in other adult homes, one in a rehabilitation facility and one in an OMH Congregate Treatment program.

The individuals were served by four HCs: FOO, ICL, JBFCS and SIBN.

They were served by five Health Homes and six CMAs.[19] During the periods that the 10 class members were going through the process of assessment, HRA approval and preparation for transition, they were each assigned an AH+CM. Dis-enrollment from AH+CM program occurred in nine of the 10 cases after they declined transition.

Timeframes for the individuals passing through the process from in-reach to HRA approval were as follows:

Table 1: Time Frames from In-reach to Finalized Assessment and HRA Approval

	Median Number of Days	Range of Days
IR to Finalized Assessment Distribution	210	73-664
IR to HRA Approval	224	87-669

Seven of the 10 class members were shown at least one to as many as seven apartments prior to the transition process being put on hold by their or others' wishes. Three did not view any apartments. They informed their AH+CMs or HCs they were no longer interested in transitioning within days/weeks after HRA approval or during the housing interview.

As of August 2018, the 10 class members have had anywhere from two to eight in-reach sessions each for a total of 42 sessions. Over time, their responses have varied from interested in moving, to considering it, to not interested. But some have remained constant in their desire to move. As of this writing in August 2018, four of the 10 class members appear to be interested in moving, six are not.

2. Interest in Moving

[19] The Health Homes were: Community Healthcare Network, Coordinated Behavioral Care, Northwell, Queens Coordinated Care Partners and Southwest Brooklyn. The CMAs were: Argus Community, FOO, JBFCS, Post Graduate, SIBN and Village Care.

Nine of the 10 individuals whose transitions did not occur during the period under review had expressed an interest in transitioning by saying Yes at in-reach. Some were steadfast in their interest, saying Yes at the time of their first in-reach as early as 2014 and maintaining interest as of today. SC is an example. (Page 16.) He told Independent Reviewer staff that he has never changed his mind about moving; he doesn't like the adult home, "after 20 years, that's enough."

Others initially were not interested or wavered in their interest over time. SR, for example (page 18), said No to moving during his first four in-reaches between 2014 and 2016 before saying Yes in February 2017. Several others said Yes upon in-reach, but then declined to be assessed. At subsequent in-reaches they again said Yes and completed the assessment and HRA approval process.

The 10th class member, BK, (page 9) never said Yes to transitioning. She initially said No during early in-reaches, but in 2016 she indicated she was uncertain, considering it. She consented to an assessment, was assigned an AH+CM and approved by HRA for Supported Housing.

3. Why They Did Not Transition

It appears that several factors played roles in preventing the 10 transitions; in some cases, more than one factor may have been at play. (See Table 2.)

Never wanted to live in Supported Housing

As discussed above, BK, who is 80 years old and ambulates with a walker, never said Yes to transitioning. She told Independent Reviewer staff that she never wanted to move to Supported Housing and never seriously considered it. She agreed to an assessment in case she changed her mind.

She knows people who transitioned, and they like it, but she said they are younger and can get around, "not like me."[20] She indicated she would need a lot of help.

When questioned, she indicated that she was aware of the wrap around services available (aides, etc.), but she was not confident in aide services: how can you guarantee the 'help' will come." She indicated that one of her friends who has moved out has told her that sometimes her aide does not show up.

BK would like to move, but not to an independent apartment. She lived independently years before, enjoyed it, but it's not for her now. She has expressed an interest in Assisted Living or Senior Housing.

Table 2. Factors Impeding the Transitions

Client	Did not Want	Concern about	Team influence	Apt/Neighborhood	Housemate	Influence of Others	Unclear

[20] Six of the 10 individuals in the sample knew people who have transitioned and reported that they say they like it.

	SH	Aides					
BK	**X**	**X**					
DJ				**X**	**X**		
FK		**X**			**X**		**X**
JH						**X**	
JR				**X**			
PL				**X**			
SC			**X**				
SR							**X**
VR						**X**	
WG			**X**	**X**			

Lack of confidence in aides

In addition to BK, FK (page 11) expressed a lack of confidence in aides. He told Independent Reviewer staff that he would need a lot of assistance with daily activities if he moved. When the topic of aides came up, he indicated that there's no guarantee that they will come when they say, "and then you are left alone with nothing."

Four of the 10 class members indicated they would need assistance with daily activities such as cooking, cleaning, shopping, etc. BK and FK were the only two to raise concerns about the reliability of aide services.

Treatment/support team decision

In two cases, it appears that it was the treatment or support team that put a hold on transitions.

WG (page 20) was approved for Supported Housing, toured several apartments in Brooklyn and expressed an interest in one. However, that same day, members of his team (a psychiatrist, nurse and an MLTCP staff person) expressed concern about his medication non-compliance, which had led to a recent hospitalization. He was told that his move would have to be delayed.

After having been approved for Level II Housing in 2014 (but not moving), SC (page 16) was approved for Supported Housing in 2016, was shown an apartment, liked it and gave his 30-day notice in January 2017. However, his MLTCP raised concerns about his ability to safely live independently in an apartment. The move was put on hold and the plan was to seek a Level II placement. At the time of the Independent Reviewer staff's interview, SC could not recall anyone speaking to him about living in a Level II program, but he said he had no interest in living in a community residence. He wants his own apartment in Queens.

Apartment/neighborhood preference

Apartment or neighborhood preference appeared to play a role in four cases.

DJ (page 10) expressed preference for a single bedroom apartment and indicated her willingness to wait when informed that it would take time. Nevertheless, she was shown double or triple occupancy units. She accepted one, but then backed out. She told her AH+CM that she was not ready to move. She told Independent Reviewer staff that she changed her mind because she did not want a housemate. She also wanted something closer to her family in Queens.

WG is the individual discussed above who saw an apartment in Brooklyn, liked it but whose team delayed the move out of concerns over medication compliance. He was not happy with the delay but indicated that he was considering not moving because the apartment was not in Queens which was his preference. His wife lived in Queens.

PL (page 15) told Independent Reviewer staff that he changed his mind about moving because he did not like the apartments he was shown – he wanted something on the first floor, without stairs.

JR (page 14) declined apartments and is no longer interested in moving because he wants an all-white/Caucasian neighborhood.

Housemate issues

In two cases, housemate issues may have been a factor.

DJ changed her mind about moving after giving her 30-day notice because it wasn't a single bedroom apartment. She reported that the prospective housemate was also a contributing factor. She reported the housemate "still smokes and I can't do drugs." According to DJ, the housemate also has a lot of male visitors and keeps a messy house.

During his interview, FK indicated that he was shown an apartment which was nice, but he did not like the housemate. When asked what he didn't like about him or what the issues were, FK told Independent Reviewer staff, "I just didn't like him…it's personal."

Influence by others

In one case, someone else influenced a class member's decision. In a second case it appears this may be a possibility.

Shortly after being approved by HRA, JH (page 13) informed her AH+CM that she did not want to transition. She explained to the AH+CM that she had talked to her sister (who is not her legal guardian) and her sister did not want her to move. JH likewise informed Independent Reviewer staff that her sister did not think she could make it living on her own and that is why she backed out of transitioning. JH has since changed her mind, wants to move and has reportedly discussed this with her sister.

Following HRA approval, VR (page 19) told her AH+CM that she did not want to transition. According to records, which VR confirmed during the interview with Independent Reviewer staff, she was afraid that her son, with whom she hadn't had contact in years, would not know where she

was. With the help of transition staff, VR was able to contact her son and she agreed to move forward with the transition process.

In a follow-up conversation, however, VR told Independent Reviewer staff that she is conflicted about moving. She reported that her HC showed her an apartment which she did not like. She also reported that the adult home administration offered her an apartment with a micro wave in a new facility scheduled to open soon if she did not move. Proximate to this time, VR signed a form opting out of the transition process.

Independent Reviewer staff reported VR's claim to DOH, and it is under investigation.

Reasons not clear

In two cases, the reasons why individuals changed their minds and did not transition are not entirely clear. In both cases the individuals have wavered in their desire to move.

On 9/14/17 when the AH+CM met with SR (page 18) to tell him HRA approved him for Level II Housing, he told her he did not want to move. He said he's 80 years old, uses a walker and cannot move. (It is not clear why he was told he was approved for Level II when he was recommended and approved for Supported Housing.)

When interviewed by Independent Reviewer staff. SR did not recall the September conversation. When reminded about the Level II issue, he indicated that he would not want that at all; he wanted his own apartment and still does. But, he added, it would have to be on the ground floor. He also said that he would need aide services to help with daily tasks, but never got the chance to talk with anyone about this, as he never got close to moving.

Following the interview, Independent Reviewer staff informed SR's Health Home of his interest in moving. They visited him within weeks, twice. On both occasions he said he was not interested in moving. He indicated he is old, uses a walker and is comfortable where he is.

After having found an apartment he liked, FK was excited about moving and told the AH+CM about a week before the transition planning meeting. On the day of the meeting, however, and subsequently, he yelled and shouted at transition staff that he is not interested in moving He did not want to be left alone or die in his apartment. There were multiple attempts by the AH+CM and HC to understand why FK suddenly changed his mind, but to no avail.

He told Independent Reviewer staff that living independently was just "too involved…not for me…too much to do." He also indicated he lacked confidence in aide services.

FK was in-reached twice in August 2018. During the first session he indicated he was interested in moving, a week later he said he wasn't.

4. Other Observations

In reviewing these cases, several issues were noted concerning transition team member performance. These may or may not have an impact on transition outcomes but are nevertheless worthy of consideration.

Probing why people decline to move

In all 10 cases, the class member declined to transition after having been approved. Records indicate an uneven performance among team members in probing the reasons why.

In the cases of DJ and FK, for example, AH+CMs visited several times and tried to probe why the individuals changed their minds. The attempts may have been unsuccessful, but they were made prior to dis-enrolling the individual from AH+CM services.

In PL's case, however, when he told his AH+CM on 9/21/17 that he did not want to move as he felt the adult home was a better/safer environment, she had him sign a "refusal to move" form that day and he was dis-enrolled from AH+CM services.

Level II v. Supported Housing

Records indicated that in two cases individuals were inexplicably informed by AH+CMs that they had been approved for Level II, although they had been recommended and approved for Supported Housing.

SR was one of the individuals. During the Independent Reviewer staff's interview, he could not recall being told this, but he said he'd never want that. He wanted his own apartment, with an aide and supports. Subsequently, he has told transition staff that he is not interested in transitioning, saying he is too old.

PL was likewise told he'd been approved for Level II Housing. The AH+CM oriented him as to what to expect in Level II. His HC, however, showed him supported apartments. Subsequently he indicated he was not interested in transitioning.

CMA and HC communication issues

Cases also illustrated shortcomings in communication among transition team members. For example:

- SC was the individual whose 2017 move to an apartment in Queens (his preferred borough) was put on hold due to concerns that he may need Level II. He was reassessed and approved by HRA for Supported Housing in April 2018. However, as of August 2018, his CMA had not sent a housing referral to a Queens HC, and his Brooklyn-based HC stated they never received a referral.

- SR was the individual who indicated he did not want to transition in September 2017. He was in-reached in March 2018 at which point he expressed renewed interest in transitioning.

However, his Health Home was unaware of this until notified by Independent Reviewer staff following the 5/21/18 interview. He was subsequently interviewed by CMA staff and indicated he did not want to move.

- Both DJ and JH, who declined opportunities to transition in 2017 after having HRA approval, indicated during in-reach sessions in March 2018 that they are again interested in transitioning. Their HRA approvals for Supported Housing are still valid. But as of August 2018, they have not been shown apartments. The HC was unaware of this until Independent Reviewer staff brought it to their attention.

Appendix of Case Summaries filed under seal

Appendix C. Progress Memo #8 Re Quality Assurance

Clarence J. Sundram
Independent Reviewer
United States of America v. State of New York
O'Toole et al v. Cuomo et al
United States District Court
Phone 518-527-1918
E-Mail: cjsundram@post.harvard.edu

TO: **Parties**

FROM: Clarence J. Sundram

Re: **Progress memo #8**

DATE: **July 19, 2018**

In previous annual reports, the Independent Reviewer has recommended a robust Quality Assurance program to review serious untoward experiences of class members who have transitioned to the community in order to identify the causes and contributing factors to such experiences, to implement remedial preventive and corrective actions as warranted, and to disseminate the lessons learned to other providers of housing and support services to class members. (*See, e.g.*, Second Annual Report, p. 100; Third Annual Report, pp. 74-75; Fourth Annual Report, pp. 79-80)

With the adoption of the Supplemental Agreement to the Settlement Agreement, which creates a Quality Assurance and Performance Improvement process (Section D), the Independent Reviewer believes it would be helpful to the parties to review an example of the type of class member experiences that warrant such a review, and to assist the parties in clarifying expectations regarding the nature of that review going forward.

Appended to this memo is our review of a class member's experience since he transitioned from Queens Adult Care Center on July 15, 2015. In the almost three years since he left the adult home, he experienced many of the problems we have written about in our last four annual reports, and many others as well. Among the issues our review identified were:

1. Conflicting information in the records of the different providers regarding this class member's ability to cook, travel independently, manage his medications, manage his money, his need for a

Home Health Aide, and whether his discharge from the adult home to Supported Housing could succeed without needed supports in place;

2. Inadequate Housing Contractor records, including large blocks of time for which there were no notes at all;

3. Multiple problems with his finances, including his inability to receive his SSI checks for several months after his discharge from the adult home resulting in his having very little money available for his expenses; lengthy delays in establishing his eligibility for full SNAP benefits, coupled with the failure to implement his Person-Centered Plan for the delivery of Mom's Meals which resulted in inadequate food in his apartment;

4. Expiration of his Medicaid eligibility and problems with obtaining his medications for a period of time;

5. His apartment was usually dirty, and he needed help with housekeeping. However, he did not receive Home Health Aide services during the two years he was in Supported Housing, and then, after his admission to Level II Housing, he was assigned an aide who spoke only French and who was unable to communicate with him or provide him with the assistance that he needed;

6. Four changes of residence post-discharge from the adult home, including with housemates with whom he had significant conflicts; and

7. Multiple hospitalizations and Emergency Room visits.

At the time that NB's situation was first brought to the attention of the Independent Reviewer in January 2017 he was in process of being discharged back to the apartment where he had lived with a roommate who had died in the hospital a few days earlier, while NB was hospitalized for more than four months after sustaining injuries of unknown origin. When NB returned to this apartment, it was filthy and practically uninhabitable, preventing the Home Care agency from sending anyone to the apartment to assist him until it was cleaned. Nevertheless, ***he*** was left to live there for more than a week, before he was moved to Stepping Stone, for respite housing, while efforts to have the apartment cleaned reportedly continued. He never returned.

After NB's situation was brought to the attention of both the Department of Health and the Office of Mental Health, their staff monitored many of these events and facilitated transfers of residences when it became necessary. They were particularly effective in preventing a premature discharge from Kingsbrook Jewish Medical Center during March 2017 back to his prior apartment which had since been cleaned, and their efforts compensated for some of the inadequacies of support and communication between the housing contractor case manager and the care coordinator.

When the class member expressed his desire to return to the adult home in April 2017, his reasons for doing so point to the failures of support in Supported Housing to assist with his medications, to address his needs for social connections, his mental health treatment and money management.

Although the Department of Health provided a Timeline of Events in response to our request for copies of any investigations or reviews of the events experienced by this class member in the more than two years since his transition, the document contains no analysis of causes or contributing factors, nor identifies any preventive or corrective actions or lessons learned. The question left unanswered is what, if anything, could or should be done to provide some assurance that the same experience would not be repeated with another class member.

As this case illustrates, relying upon providers for QA reviews almost assures that such reviews will be limited and fragmentary rather than comprehensive, as each of them has a specific role and responsibility and may lack access to the information and records of other providers required for a complete picture. To ensure comprehensive and complete QA reviews, the State needs to identify a locus of responsibility for such reviews and ensure access to all required information and records.

It should be noted that going forward, within 60 days of the effective date of the Supplement to the Settlement Agreement, Post-Transition Incident Reporting and Review processes must be put in place that will require the State to investigate, analyze, and make reasonable attempts to correct and prevent a recurrence of situations reported pursuant to section D (6) of the Supplement. Under the new reporting guidelines, several of the events experienced by NB while receiving AH+CM would have been reportable and required investigation, analysis and corrective action, including, but not limited to: the unsafe or unsanitary living conditions that jeopardize the ability of a transitioned individual to remain stably housed in Supported Housing; and repeated crisis episodes, including two or more Emergency Room visits or psychiatric hospitalizations within a twelve-month period.

Attached Report Filed Under Seal

Appendix D. Progress Memo #10 –Level II Housing

Clarence J. Sundram
Independent Reviewer
United States of America v. State of New York
O'Toole et al v. Cuomo et al
United States District Court
Phone 518-527-1918
E-Mail: cjsundram@post.harvard.edu

TO: **Parties**

FROM: Clarence J. Sundram

Re: **Progress memo #10 –Level II Housing**

DATE: **October 6, 2018**

The Settlement Agreement requires that within five years of its execution all adult home residents shall be assessed and, if appropriate under a person-centered plan, transitioned from impacted adult homes. (Settlement Agreement, ¶ I (1)). If a resident is assessed as not appropriate for Supported Housing, the resident must be afforded the opportunity to live in the most integrated setting desired by the resident that is appropriate to the resident's needs. (*Id.*, ¶ F (7)) The Supplemental Agreement provides that it shall terminate on December 31, 2020 if, as of that date, the State has transitioned substantially all eligible adult home residents who are appropriate to be transitioned. (Supplemental Agreement, ¶ H (2)

At present, there are a substantial number of class members who have received recommendations for Level II Housing.[21] Although there have been disagreements between the parties about the appropriateness of recommendations for Level II Housing in some cases, since the implementation of the CRC process created by the Supplemental Agreement to the Settlement Agreement (SA) there is no disagreement that such recommendations are appropriate for a significant number of class members. As there is no specific allocation of such housing for class members, progress in transitioning these class members has been slow. As of September 21, 2018, of the 187 individuals approved by HRA for Level II Housing, only 32 (17%) had transitioned to all types of Level II Housing. It is reasonably foreseeable, unless circumstances change, that this cohort of class members who have received recommendations for Level II Housing will continue to experience difficulty in finding such housing. The failure to transition "substantially all" of these residents by December 31, 2020 may prove to be a barrier to the termination of the Supplemental Agreement

[21] Level II Housing includes Congregate Treatment; Community Residences-Single Room Occupancy (CR-SRO); and Apartment Treatment).

and Settlement Agreement despite the State's substantial compliance with its other obligations under these agreements.

To inform the parties about class members' experiences in Level II programs, between April and August 2018, the Independent Reviewer's staff conducted visits with 10 class members who had transitioned to Level II Housing. Each of the class members had been assessed by Health Home or MLTC nurses using the UAS-NY tool prior to transition. Class members were discharged from the adult home between September 1, 2015 and February 1, 2017. They were discharged to three Congregate Treatment residences (4), two Community Residence-Single Room Occupancy programs (CR-SROs) (4) and one Apartment Treatment Program (ATP) (2). Staff also visited with two class members who had transitioned from SJMC's Chait House Congregate Treatment and Pibly's ATP to Supported Housing (SH). Based on these visits, interviews with class members and review of relevant records and discussions with housing, case management and Care Management staff, we found the following:

- Level II Housing was generally recommended because of issues of medication non-compliance; inability to manage independently, including insulin injections; and psychiatric symptomatology including suicidal ideation and past hospitalizations that raised concerns that the resident presented a risk or danger to themselves or others. In several cases, it was the specific comments of the psychiatrist or other person completing the Comprehensive Psychiatric Evaluation (CPE) that stated the class member "needed 24 hour supports." Three class members had gone to less restrictive Level II settings than originally recommended by the assessors due to the efforts of the Interdisciplinary Team or the Housing Contractor to ensure their placement in a less restrictive setting; two went to ATP rather than CR-SRO (EG & AT), and one to CR-SRO rather than Congregate Treatment (AC).

- All class members had service plans that detailed their goals in Level II Housing and the criteria for discharge to more independent housing, which were reviewed and amended quarterly, as indicated. Goals were worked on with housing case management staff as well as with their care coordinators, and sometimes in day treatment programs or mental health clinics. Given individual residents' different goals and the different service providers in place, there was some variation in the degree to which residents were supported in progressing toward their goals. For example, at Chait House, residents were involved in all aspects of buying, preparing, and serving meals, offering intensive training around this ADL. At Hazel House, however, residents could work individually with a cook counselor to design more specific cooking goals for themselves. Both class members we interviewed at Hazel House had goals for ADLs such as cooking, and although one had met informally with the cook counselor, neither had worked actively on cooking goals despite over two years in the program.

- St Joseph's Medical Center and Pibly Residential Services had admitted four of our sample class members to their Level II program from adult homes where they were the designated housing contractors. Executive staff at these agencies stated that class members admitted to their Level II programs were given priority for Supported Housing beds, when ready, through the SA. For SS, who was in SJMC-Chait House–Congregate Treatment, the goal

from the date of her admission was to transition to Supported Housing when adequately prepared, because of the SA. Program staff from the TSI Level II programs visited stated that priority for decision making as to where an individual goes upon graduating from Level II is their clinical picture and what the individual needs in terms of staffing supports and their ability to live independently. However, the goal for the five class members visited was Apartment Treatment. They did not indicate that there is a preference given to class members to back fill Supported Housing beds, or otherwise transition class members to TSI Supported Housing beds through the SA.

- Several class members had made significant progress in Level II Housing, including:

  - two who transitioned to SH (SS & EG);
  - one who is expected to move from Kizzy House in the near future to SH (AC);
  - AP who has made significant progress in 2 South, is now medication compliant, and whose most recent goal is to transition to ATP in 3-6 months.

- Other class members demonstrate more mixed progress, gaining some independent living skills but still needing or desiring support with other skills:

  - Although staff believe AF has the ability to make it in more independent housing, and he has made significant progress in 2 South with his medication compliance and self-care, he still isolates himself and does not want to engage in college or a work program which was recommended for him, is not motivated to move and prefers that others "do things for him."
  - Although MR has made some progress, and she says she wants her own apartment, her stay at Hazel House has been a roller coaster ride filled with multiple hospitalizations due to suicidal ideation, multiple AWOLs, including three weeks in a shelter, and she is not interested in doing what is needed to manage her own medications or budget her money in a way that would hasten her departure to more independent living.

- The remaining four class members appear to need the ongoing supports that their Level II Housing provides, with no concrete goal for transition for them in the foreseeable future, as follows:

  - AT has a severe memory deficit, making medication teaching difficult;
  - MT does not feel she needs medications and requires supervision to take them, and does not manage her money; and
  - EW, who did move to ATP but returned after he decompensated, needs constant supervision to avoid isolation and manage most areas of functioning.
  - DM is content to have her HHA do most everything for her, and her goals at Hazel House no longer focus on skills that would lead to more independent living; and

although the goal remains Apartment Treatment in 12-24 months, she is not interested.

- While the SA anticipates that most if not all class members could be managed in Supported Housing with wraparound services, we found that most of the class members visited needed the supervision and support offered in these programs. During our visits many of the class members were not medication compliant, could not care for their rooms/hygiene, would not come to eat unless prompted, cannot or will not cook, etc. Aides in SH could have helped with these things: made sure they took their medications, cleaned their rooms for them, made breakfast and told them to eat, etc. But discussions with class members, staff and review of many of the records indicated that the Level II staff were doing more than just making sure medications were taken, rooms cleaned, food eaten, etc. They were teaching how and why.

- Many of the class members who were not medication compliant were now medication compliant **and** knew the medications they were taking, the dosages, reasons, etc. While counseling someone to clean their room or shower, some case managers would get into discussions about health issues, germs, the need for cleanliness. Similarly, with the class members with diabetes who would not come for breakfast; they did not just prompt them to eat, they also talked about the importance of breakfast and eating the other meals given the insulin they were taking. Several programs have staff called cook/Counselor: they often make sure meals are prepared, just like an aide would do in SH, but some also teach food shopping and preparation skills to clients. While many of our class members were not interested in doing this, they were encouraged to do so. In Chait House the residents did all the shopping, menu planning and cooking with the supervision of staff, learning the skills on a rotating basis. In addition, the level of attention that we observed in the ATP program, and the multiple staff visits to ensure that all medication is taken and that the apartments were operating efficiently was truly impressive.

Given the benefits of Level II Housing for those who need the increased level of supervision, as documented above, coupled with the increase in the number of recommendations for Level II Housing, **we recommend that the State explore the possibility of designating additional Level II beds specifically for the class members affected by the SA. It is further recommended that these beds be allocated to the HCs involved in this initiative, which would help facilitate the transitions to Level II programs, and the eventual transition to Supported Housing where appropriate.**

In the report that follows, we describe the reasons why recommendations for Supported Housing were made for the class members in our sample (pp. 8-9), the different types of Level II programs visited (pp. 10-18), the implementation of individual program plans for the class members in their Level II programs and their progress in preparing them for transition to more independent living (pp. 18-26). Appendix A provides a more detailed description of each of the class members in our sample.

Review of Class Members in Level II Housing

I. Introduction

The Settlement Agreement (SA) filed July 23, 2013 states that "Assessments shall begin with the presumption that NYC Adult Home Residents can live in Supported Housing", unless the assessment discloses that the resident: a) has significant dementia; b) would be danger to self or others in Supported Housing even if receiving the services available through the New York State Medicaid program; c) needs skilled nursing care that cannot be provided outside of a Nursing Home or hospital; or d) needs a type and/or frequency and duration of service on an ongoing and sustained basis in order to live in Supported Housing that is not available under the New York State Medicaid program. (¶ F) ¶ F.7 states that "If a NYC Adult Home Resident is assessed as not appropriate for Supported Housing: a) the assessment must identify the specific reasons why such Supported Housing is not appropriate; and b) the resident will be afforded the opportunity to live in the most integrated setting desired by the resident that is appropriate to the resident's needs." Other forms of housing include Level II Housing (including Congregate Treatment; Community Residences-Single Room Occupancy–(CR-SRO); and Apartment Treatment); OMH Family Care; Senior Housing; and housing through other agencies like the Office of Alcohol and Substance Abuse Services (OASAS) and the Office for Persons with Developmental Disabilities (OPWDD).

Despite this presumption, as detailed in the Independent Reviewer's Fourth Annual Report (p.53), recommendations for Level II or OMH licensed housing as a percentage of all recommendations in a given year had grown from 0.6% in 2014 to 11.3% in the first quarter of 2018. Few class members recommended for such housing have transitioned. As of September 21, 2018, of the 187 individuals approved by HRA for Level II Housing, only 32 (17%) had transitioned to all types of Level II Housing.; 13 others have died and 20 were non-transitional discharges. Of note, the SA does not require the State to create additional capacity in these types of housing options to accommodate class members.

In light of these findings the Independent Reviewer initiated a review of class members who had transitioned to Level II Housing. The focus of the review was to see how class members who had been living in the various forms of Level II Housing had been doing since moving out of the adult home. Specifically, why were they recommended and placed in Level II Housing, what were the obstacles to placing these individuals in Supported Housing; what were they doing in Level II Housing that will prepare them for transition to Supported Housing; and what has been their experience living in Level II Housing.

A. Study Sample

In order to best understand the above factors, we chose class members who had transitioned to Level II Housing after March 11, 2017, so that they would have been out of the adult home more than a year and had sufficient time to begin to work on the goals needed to transition to a more independent level of care, such as Supported Housing. Of the 17 class members who met these criteria, five had gone to Apartment Treatment; two to Congregate Treatment and 10 to CR/SRO. Nine of the 17 had gone to Level II Housing with Pibly, including five to Apartment Treatment and three to CR-SRO.

Of the 17 class members we chose 10 to provide a sampling of each of the commonly utilized Level II placements and housing providers (see Table below). The sample included six men and four women, ranging in age from 34 to 69 years at the time of their move, with an average age of 57. Measured from the most recent in-reach to the date when they moved out of the adult home, the quickest move took 58 days (AT), while the lengthiest took 519 days (MR), with a median time for the sample of 299 days.

Housing Contractor	**Client Initials**	**Admission Date Per CAIRS**	**Agency/Program Name**	**Program Type**
Pibly Residential Programs, Inc.	E.G.[22]	5/18/16	Pibly Apartment Program	Apartment Treatment
Pibly Residential Programs, Inc.	A.T.	4/1/16	Pibly Apartment Program	Apartment Treatment
Jewish Board of Family and Children's Services	A.F.	9/15/15	TSI-NY - 2 South Community Residence-	Congregate Treatment
Federation of Org. f/t NYS Ment. Disabled, Inc.	A.P.	2/1/17	TSI-NY–2 South Community Residence–	Congregate Treatment
St. Joseph's Medical Center	S.S.	12/2/15	SJMC-Chait House	Congregate Treatment
Institute for Community Living	E.W.	9/1/15	TSI-NY–2 North Community Residence–	Congregate Treatment
Pibly Residential Programs, Inc.	M.T	5/10/16	Pibly Kizzy House	CR-SRO

[22] For each of the class members in our sample, a full description of the case history is attached as an appendix and briefer references to salient facts are included in the body of this report.

Jewish Board of Family and Children's Services	D.M.	2/11/16	TSI-NY-Hazel House	CR-SRO
Pibly Residential Programs, Inc.	A.C	8/17/16	Pibly Kizzy House	CR-SRO
CommuniLife, Inc.	M.R.	12/16/15	TSI-NY-Hazel House	CR-SRO

Types of Level II programs

Methodology

The study included review of assessment-related documents (CPE, psychosocial. AHRAR; UAS assessment); Health Home/CMA and Residential program records; visits to, and interviews with the class members at their residential program or supported apartments; interviews with residential case management and administrative staff, as available; and follow-up with Care Management staff. It should be noted that one class member (EW) refused to be interviewed by the Independent Reviewer's staff. Visits were conducted between April and August 2018. As of August 1, 2018, the class members in our sample had lived in Level II Housing from 546 days (AP) to 1051 days (AF), with a median length of stay of 877 days. This includes one class member who transitioned to Apartment Treatment in November 2017, but experienced great difficulty living independently without ongoing supervision, was hospitalized and was returned to Congregate Treatment in March 2018 (EW). It also includes two class members who had transitioned to Supported Housing; one from Apartment Treatment during July 2017, after 519 days (EG) and another from Congregate Treatment during February 2018 after 819 days (SS).

II. Level II Housing – Findings and Observations

A. The reason for the Level II Housing recommendation

The first question we sought to answer was: ***Given the presumption in the SA cited above, why were the class members recommended and placed in Level II facilities, and what were the obstacles to placing these individuals in Supported Housing?***

Although the SA specifies the limited reasons for recommending Level II Housing, including dangerousness or the inability to provide the services needed in Supported Housing, some of the cases we reviewed did not fit neatly into those two categories. However, the AHRARs and the discussions on the many Level II calls we have participated in, for the most part, did document the reasons why it was determined that the class member required the supervision and assistance available in Level II programs, and why the recommended type of Level II Housing was indicated. For several of the class members in the sample, there were multiple reasons for recommending them for Level II Housing.

1. *Medication compliance*

The issue of medication compliance was a primary concern for many of those recommended for Level II Housing. Assessors found that given their psychiatric history, many with multiple hospitalizations, the resident often did not understand the purpose of the medications they were taking and would not be interested or be able to self-administer them once out of the adult home. They feared residents would stop taking them, which would lead to psychiatric decompensation and hospitalization. These concerns were documented for five of the 10 in our sample (AF, AP, EW, MR, SS). For four of the class members there was also concern about their ability to manage their health issues, including insulin dependent diabetes, where there would not be someone there to administer the injections in Supported Housing (EW, AT, DM, EG).

2. *A history of violent behavior*

A history of violence against others was cited in three cases (AF, AP, AC). AC had assaulted a peer and a staff person at a prior residence several years ago and AP had choked a resident in the adult home shortly before transition.

3. *Severity of symptoms of mental illness*

The severity of the symptoms of mental illnesses of the class members, which often included delusions, persecutory and suicidal ideations, limited insight and judgment, often leading to frequent ER visits and hospitalizations, was cited in seven of the 10 cases (AC, AP, EW, EG, AF, MR, AT).

4. *Inadequate independent living skills*

Significant for many of those in our sample was the concern that they had not lived independently in many years, or never, and they needed maximal staff assistance in personal care, money management, home maintenance, etc. This was documented for six of the class members, including EW, DM, SS, AF, AC, MR. In the case of AC, it was his gambling addiction which raised concerns about his ability to manage his money if living independently. For MR, who at 48 y/o had lived in adult homes for almost half her life, it was her severe psychiatric symptomatology with frequent hospitalizations for suicidal ideation and the need for supervision/assistance in many areas of functioning. For others it was the tendency to isolate themselves, as noted in the assessments and AHRARs of SS, EG, DM and AT. A diagnosis of mental retardation was noted for AC and DM. In the case of DM, 68 y/o, the AHRAR noted the services she needed could not be provided in

Supported Housing, citing "the revelation and assessment of resident's mental retardation diagnosis, which is now supported by YAI agency."

B. Program descriptions

1. Congregate Treatment Programs

According to NYS OMH's website, Congregate Treatment is a group-living designed residential program which focuses on interventions necessary to address the specific functional and behavioral deficits which prevent residents from accessing generic housing. These interventions are goal-oriented, intensive, and usually of limited duration. Generally, three meals a day are offered, and staff is on-site 24 hours/day. As noted in the OMH Community Housing and Services Directory, it is designed to be transitional (generally 18-24 months) and in most cases leads to even more independent types of housing offered by OMH, including CR-SRO and Apartment Treatment. Bedrooms can be private or may be shared with another person. Buildings with this kind of housing can serve up to 48 people, but many are smaller. Of the three types of Level II Housing included in our review, Congregate Treatment provides the most intensive support and treatment services and is intended to be the most transitional of the three. The 2018 SSI benefit for this level of care in NYC is $1185/month, and the resident receives a Personal Needs Allowance (PNA) of $166, or $186 if on SSD. The Congregate Treatment Programs visited during our review included TSI-NY's 2 South (AF, EP) and 2 North (EW) Community Residences and St. Joseph Medical Center's Chait House (SS).

a) Phase I – 2 South and 2 North

TSI operates three 10-bed Congregate Treatment or CR programs in Building 20 – a two-story structure – on the grounds of Creedmoor Psychiatric Center in Queens, NY. The three programs are collectively known as Phase 1. Individually there are referred to (and certified) as 1 South; 2 South (where two of our sample class members, AF and AP, reside): and 2 North (where EW lives). The number in the name refers to which floor of Building 20 the program is located. There are no criteria/guidelines differentiating/distinguishing who gets admitted to which of the three programs; placements are made based on vacancies. At present all three 10-bed units of Phase 1 are filled to capacity.

Based on a tour of 2 South and 2 North, where three of our sample reside, coupled with staff reports about Unit 1 South on the first floor, the physical layout of the three programs is nearly identical. Each accommodates 10 residents who either have single or double occupancy rooms. There are six single and two double rooms on 2 South and four single and three double rooms on 2 North. Bedrooms are furnished with bed(s), dresser(s), closet space, chair(s), end tables and window

dressings. Residents furnish them with additional items according to taste, e.g., small refrigerators, TVs, computers, personalizing touches, etc.

In addition to bedrooms, each unit has shared/common bathrooms (with a shower, toilet, sink, etc.) along the hallways – approximately one for each 2-3 residents. Each unit also has a common area (for groups, TV viewing, etc.) and a kitchen and dining room. Meals are provided by the residence.

According to the Director, about 10-12 of the 30 Phase 1 residents attend day programming off site (one of our sample clients, AP, attends a TSI PROS program). Phase 1 offers in-house groups which residents of the three units may attend. Among these are:

- Movement (skills needed to move to the next level of independent living)
- Medications
- Anger Management
- Health & Wellness
- Apartment and Overall Building Maintenance (cleaning one's room, doing laundry, cleaning common areas, etc.)

All medications are kept locked in the case manager's office. No individual is allowed to keep his own medications. At the appointed hour, residents independently (or with prompting/reminders from staff) report to the office, pour their medications and ingest them in the presence of staff.

In addition, individuals receive one-on-one counseling, e.g., the case manager may help them with budgeting skills, or they may be linked with a cook/Counselor to help learn skills relating to meal preparation. According to the Director, the intended length of stay for Phase 1 Cong Treatment programs is up to two years. In actuality, the length of stay for some has been 5-10 years. (All three of our sample clients have passed the theoretical two-year LOS.)

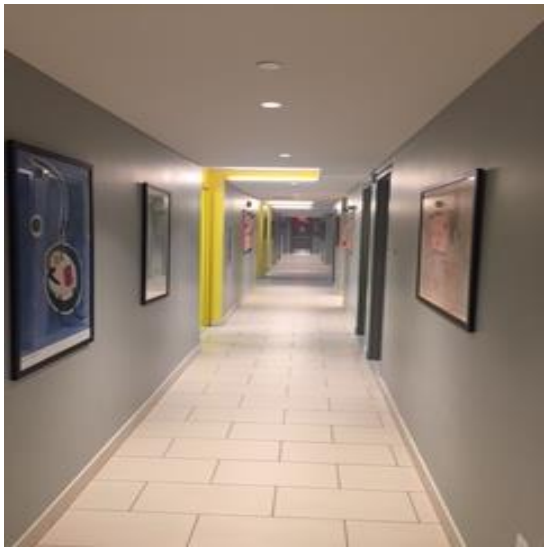
Staffing in each of the two residences includes a Case Manager, Counselor and Night Counselor and shared staffing across all three programs of the Director, Assistant Director, Senior Case Manager, Medical Coordinator, Rehab Counselor and Evening Supervisor.

When asked if class members are given priority for Supported Housing when they graduate from the residence, the Program Director indicated that where they go is based on the clinical picture and what the individual needs in terms of staffing supports and their ability to live independently. Most of the time this can result in moving to Apartment Treatment and sometimes to Supported Housing. In the case of the three class members in TSI's CR programs, the most recent service plans call for graduation to apartment treatment programs.

b. Chait House

Chait House is a 15 bed Congregate Treatment residence operated by St. Joseph's Medical Center (SJMC), on Staten Island, and is located on the grounds of the former site of Bayley Seton

Hospital where there are several other programs operating. Chait House is on the third floor and is comprised of 15 single occupancy rooms. The residence had been completely renovated in the last few years and was very attractively decorated with artwork and modern furnishings in the hallway and the common living room. There was a large and a small recreation/living room, as well as a kitchen and a dining room, and a medication room. All 15 residents have single rooms with a bed, dresser, nightstand, and wardrobe.



Most referrals come from State Psychiatric Centers (PC), most often South Beach PC. The residents share three full bathrooms, a kitchen and a dining room. The average LOS is18-24 months, with discharge to a lower level of care, such as SJMC's Apartment Treatment Program (37 beds with eight more recently awarded) or Supported Housing.

The services provided to residents at Chait House are focused on restorative counseling and skill building. Skill building includes training in medication management; menu planning and cooking; cleaning; budgeting; symptom management; socialization and assertiveness training; community integrations services; and substance abuse services, as needed. Residents shop for food

(having the option to share their SNAP benefits), plan menus and prepare evening meals with the help of staff, with chores being assigned and rotated. All meals are provided at the residence.

Twenty-four-hour staffing at Chait House includes a Director, a Program Supervisor, three full-time case managers, three full-time mental health aides (two day, one overnight) and a part time mental health aide (weekend overnight). Staff supervises the self-administration of medications, one-on-one, with each resident pouring their own medications. Residents sit with the nurse and take the pills from the blister pack while explaining what the pill is and what condition it is treating. Day Programs are encouraged, with roughly 80% of the residents attending a daily day program, including SS, who was in our sample. If not, residents attend a mental health clinic. Case managers are assigned to all residents and see them for scheduled appointments twice weekly, but much more often informally, as they are in the residence. Group activities are offered in the evenings and on weekends, and in one typical month included weekly community meetings; picnic in the park; bird and nature walk at Great Kills Park; menu and transition planning groups, and bimonthly health and wellness groups.

The Director for Residential Services for SJMC stated that as soon as SS moved in, the plan was to transition her to Supported Housing, because of the SA, and her status as a class member. LOS in Congregate Treatment is generally 18-24 months with movement expected to Apartment Treatment. However, because of the SA her goal planning and all the work with her was targeted for transition to Supported Housing, which she did in a little more than two years.

2. Community Residence/Single room Occupancy (CR-SRO)

According to the OMH website this type of housing "is designed as extended-stay housing (2-5 years) and leads to more independent housing." There are staff at the residence 24 hours a day and residents live in either a studio apartment (one large room that includes a kitchenette, living space and sleeping area plus a private bathroom) or in a suite with shared living, kitchen, and bathroom areas, but single private bedrooms. The CR-SROs visited included TSI-NY's Hazel House (DM & MR), and Pibly's Kizzy House (AC & MT). The 2018 SSI rate in NYC for a CR-SRO program is $1185/month, of which the resident receives a PNA of $166, or $186 if on SSD. According to OMH, in addition the resident also receives back $420 for food, cable, and phone.

a . Hazel House

Hazel House is a 52 bed CR-SRO operated by TSI in Building 74 on the grounds of Creedmoor PC and was at capacity at the time of our visit. One-third of the building is occupied by Hazel House, with two other agencies operating CR/SRO's in the other areas. Hazel House occupies part of the 1st and 2nd floors and all of the 3rd floor. The residence provides 24/7 care and supervision to its residents. There are 13 two-bedroom apartments and 26 single resident studio apartments. There was a large dining area and day rooms on each floor, as well as a computer room.

A treadmill, Fooz ball and table hockey games were available in one of the community/day room areas. The dining room had attractive tables, brick walls and pictures on the walls, while the community/day room areas were generally absent decorations.

Referrals to the program come from State Psychiatric Centers, including Creedmoor PC, after long-term psychiatric hospitalizations; Apartment Treatment & Supported Housing programs (TSI or others), for those who require additional on-site support; adult homes; Nursing Homes. It was reported that DM and MR, the two class members in our sample, were the only Hazel House residents who came directly from the adult homes. There was one other resident who had been in a supported apartment from the SA, who needed additional support and was admitted to Hazel House.

The Program Director reported that the intended stay is two years, but roughly a dozen of the residents has been there since it opened in 2012, or more than six years. The class members in our sample have been at Hazel House for roughly two and a half years. He mentioned that many of the residents do not want to leave. He said those that do graduate go to Apartment Treatment or Supported Housing, or to live with family; in rare cases, some go to a psychiatric hospital or Nursing Home. Between August 2016 and August 2018 there have been 14 discharges and 14 admissions to Hazel House.[23]

The Program Director described the process whereby each resident is assessed to identify their goals and develop a treatment plan which is implemented by program staff and case managers. The goals generally identify those areas in which the individual needs to develop additional skills in order to move to more independent housing. This is done in regular sessions that are held with the individual's case manager, which seem to occur informally on a daily basis. He said that most of the residents do not have care managers with CMA, only a handful, as many have moved to MLTC, but 10 are reportedly enrolled in both.

All residents at Hazel House receives SNAP, with most receiving $160-$194, based on income. There is also an optional meal plan for $125/mo. which includes a “breakfast bag” (typically includes juice, pancake and apple) and dinner, in which 30 residents are enrolled, including DM and MR. All units have full kitchen facilities, so residents can prepare their own meals if desired. Lunch is not provided, as an added incentive to go to program. In addition, several churches have food pantries that residents are able to use, but DM and MR said they did not use them.

[23] Of the 14 discharges, three had moved to Apartment Treatment; four had gone to a higher level of care, e.g., Nursing Home; two had gone to another TSI-NY CR/SRO, including one resident in response to an order protection by his girlfriend, MR, one of those in our sample; three were deceased following medical complications; one had refused service/dropped out; and one had been incarcerated. There had been no transitions to Supported Housing during this period.

Medications are maintained in a separate room where residents receive their medications in the morning and in the evening. Although they lineup outside, they have several hours to get them, so there is reportedly never too long a wait. Each resident comes in and either pours their own medication or removes medication from a pillbox that they previously poured. There are some residents who manage their own medication, and take the bottles up to their rooms, when approved by their psychiatrist. Residents are asked to identify name, purpose and dosage of medication, if it is a part of the treatment plan.

As noted on the group schedule for August 2018, there are weekly Rehabilitative Groups that cover ADL, Cooking, Medication Management, and budgeting/Money Management. Residents can work with a housekeeper counselor to learn more housekeeping skills, but currently that position is vacant, and the case managers work on ADLs with the residents. We were informed that two residents are employed part time and five are currently seeking employment, and some residents babysit, or work at their family's businesses. There is also a peer-run bookstore where one resident works and two residents have cars and park in front of the residence.

Twenty-four-hour staffing is provided by a full-time Program Director; Assistant Program Director; three case managers; two Front Desk Staff; two Overnight Counselors; a cook counselor; and a housekeeper counselor. Part time staff includes three Front Desk Staff and an Overnight Counselor.

b. Kizzy House

Kizzy House is a 40 bed CR-SRO operated by Pibly Residential Services. The Program Director described the program as NY/NY I & II[24] eligible and that they needed a waiver to admit adult home residents. Most of the admissions to Kizzy House are from shelters and State Hospitals (though not recently.) The average length of stay is 6-61/2 years. There are 40 single rooms on the upper four floors (no elevator), and a common lounge, dining area, kitchen, and offices on the first floor. Each residential floor also has a lounge and a kitchen where residents can cook. There are shared bathrooms on each floor (one single bathroom with toilet and sink, one toilet, shower and bathtub, one shower.) Residents are responsible for cleaning the bathrooms, via a rotating schedule. The main lounge area has a television and a sofa, and a couple of chairs without cushions. When we inquired about it, it was explained that they have had a persistent bed bug problem, and until that is resolved, they have removed the cushions. Bedbugs had been previously reported in the room of AC, one of the residents in our sample. There is also a dining area and kitchen where the dinner meal is served for people on the meal plan, and the area is also used to hold groups. The building is old, but all areas appeared to be clean.

[24] NY/NY 1 & II refers to agreements between NYC and NYS to provide housing and services to homeless persons with SMI.

There is 24/7 staffing provided by 15 staff who cover various overlapping shifts. Case managers do medication supervision each day in the morning and evening, and one overnight staff, who is either an MSW or LMSW.

Medications held by the home are given out in an office and residents are called individually to receive them. They offer a meal plan which consists of a dinner meal for $40-50/month, depending on the number of days. It is voluntary, but the Program Director stated that she encourages people to use that when they first come to Kizzy House. She also raved about the cook and the meals he makes, stating they are gourmet. The home's services include: case management services, individual therapy, escorts to appointments, role playing and teaching medication management, budgeting, ADLs, travel and symptom management.

The groups offered are men's and women's groups, social group, art group, current events, monthly community meeting and birthday parties, game group, cooking groups, budgeting, exercise (twice/wk.)–boot camp, walking group on Saturdays in the morning and afternoon, weather permitting, housing group (use laptops and learn about housing options), and WRAP group. They also have a horticulture group which is aimed at exposing people to different things. They work with Columbia University with an OT master program intern who does computer groups, pet therapy, stress management. They are at the home five days a week for 7-8 hours. They also work 1:1 with residents on ADL's and leisure skills, run groups, and cooking and budgeting.

On the day of our visit, the intern was observed conducting a cooking group. Nine people were participating. The intern had gone shopping with a couple of people and went over how to prepare the meal, cook it, as well as how much each item costs and how to budget for food, which was quite impressive.

3. Apartment Treatment

According to the OMH website, this residential treatment program provides a high level of support and skills training in apartment settings. Similar to Congregate Treatment, this type of housing is designed to be transitional, with most residents remaining for about 18 months, after which they may graduate to a supported apartment. Residents generally share an apartment in the community with one or two roommates. Bedrooms may be shared but are usually private. Residents receive visits from support staff as needed, but there are no staff stationed in the apartment building.

Two of the class members in our sample (EG and AT) had been placed at Pibly's ATP, and EG had transitioned successfully to Supported Housing during October 2017, less than 18 months after his move from the adult home. Pibly has 99 people in the ATP in 33 apartments. Pibly's website describes the ATP as a program for residents who do not require 24-hour on-site supervision and have reached a level of functioning where need for staff assistance or training can be met through staff visits to the apartment. Residents in the ATP have access to staff 24 hours a

day for crisis intervention. Residents may remain in the ATP for as long as two years or while they continue to require services at this level.

According to Pibly's Executive Director the average LOS is 7.5 years, in part due to lack of availability in Supported Housing for non-class members. Emphasis, however, is placed on encouraging and assisting residents to move to their own community apartments or other appropriate housing setting. There is one counselor per six clients. There is someone who does daily rounds at the apartments to make sure residents take their medication, get ready for program, etc. (as needed), and provide some evening rounds.

The Program Director and Executive Director noted that their services include the following: Restorative Services- living skills, cooking groups, keeping apartment clean, coping skills, medication compliance, managing symptoms, cooking healthy meals, and substance abuse services. They offer groups seven days a week. They mentioned that the counselors hold cooking groups in the apartments, they have apartment meetings monthly to discuss issues and needs and have cleaning groups. These services are done through modeling. They also use OT students to run some groups and work with some people individually. They provide $9 a month to each person to go out to dinner or to do whatever they would like to do with their counselor. They have a four-day camping trip that people can sign up for. Pibly also has a bowling league, and there is a Sunday Brunch available to all Pibly Residents at one of their Congregate Care Programs. The 2018 SSI benefit levels for the ATP in NYC is $1185/month. According to OMH, similar to the CR-SRO, the resident will receive a portion of these funds for food and cleaning supplies, as well as keep their personal needs allowance of $166, or $186 if on SSD. At Pibly the amount each resident in the ATP receives for food, cleaning supplies, etc., is $291/mo.

C. Preparation for Transition to Supported Housing – What were they doing in Level II Housing?

1. Congregate Treatment

Upon admission to the Congregate Treatment program each of the four sample residents was provided with a service plan intended to address their need to obtain the skills necessary to help them to transition to independent living. Most service plans focused on skill building including maintaining their mental and physical health (symptom management; keeping appointments, attending day program, etc.); training in medication management; maintenance of ADL's (personal hygiene, cleaning their personal space; budgeting/money management; socialization); and assertiveness training to name a few.

- For SS at SJMC's Chait House, transition to Supported Housing, as mentioned above, was expected within 18-24 months. Following her admission to Chait House in December 2015, she was prepared from the outset for transition to Supported Housing by identification of the areas that she needed assistance with and incorporating them into her treatment plan. These included medication management

and training; assertiveness/self-advocacy; restorative counseling to encourage participation in day programming; socialization; daily living skills training (i.e. budgeting; cooking); symptom management; and Community Integration Services, including transition to a more independent level of care.

Medication was an ongoing issue for SS, who took roughly 14 pills a day, as well as three inhalers. The matter was complicated by the language issue, as the medications are all in English and she is unable to read and write fluently in either English or Spanish, which was challenging. Nevertheless, staff assisted her in understanding her diagnosis, learning the names of the medications and their purpose, and taught her self-administration. She learned to cook and with the assistance of a Home Health Aide (HHA) improved her daily living skills. She attended a day treatment program where she participated in individual and group therapy. As a result of the implementation of her treatment plan, she was able to transition to more independent living in a little more than two years, as projected.

- For the three class members with TSI-NY 2 South and 2 North (AF, AP, & EW), the projected length of time to transition to Apartment Treatment was projected to be 6-24 months. As of August 1, 2018, their time in the residences ranged from 18 months (AF) to almost three years (AF and EW) with SS transitioning to Supported Housing after 27 months.

- AP, 47 y/o, had lived at Wavecrest HFA for almost 12 years prior to transition to Phase I during February 2017. AP was recommended for Level II rather than Supported Housing. He was non-compliant with medications, would leave the AH for days without returning for medications. He had also reportedly choked another resident with num-chuks, leading to an admission where the CPE for transition was completed. He was paranoid with fair impulse control and poor judgment and had Type II Diabetes. AP's services have focused on medication & clinical appointment compliance, improving his self-care skills, remaining alcohol free and budgeting and money management skills. Per his housing case manager, the residence has provided him with the 24/7 staff support and structure (which would not be available in SH) to help him manage his life and learn, largely through the reminders and prompts staff provides. Mr. P has made progress in the program. He is compliant with his medications (and learned purposes/dosages), he attends PROS regularly, is doing his own laundry and is doing things he is proud of (exercising which helps with his diabetes, making/selling jewelry, etc.). More recently, he has expressed a desire to move to more independent living. His latest service plan projects a move date to Apartment Treatment within 3-6 months if he progresses with his goals.

The three residents in our sample who agreed to be interviewed (AF, AP & SS) all expressed satisfaction with leaving the adult home to live in Congregate Treatment, and with the overall experience; and EW refused to be interviewed. AP really enjoys his current placement and is proud

of his progress and the things he has been doing. But he also told the reviewer that he believes it is time to move on to a place of his own in Far Rockaway or on Long Island. AF likes where he is living and shared that with the reviewer. He also said that at some point down the road he would like to move to more independent living…but not now. SS was very happy when she left the adult home and moved to Chait House. She said she was glad to be out, as she had been having a lot of trouble with her roommate in the adult home, and they had a lot of arguments. She also said she did not get attacked by other residents at Chait House like she did in the adult home. She liked having her own space and not having to share a bedroom as she did at Harbor Terrace.

In reviewing the living conditions in the residences, satisfaction of the resident, and ability to successfully navigate each of the various areas of residential life, we found the following:

- The programs were accessible to the community and public transportation once off the grounds. Chait House had been newly renovated, and the rooms and furnishings were attractively decorated, and all of the residential programs were found to be clean, and without maintenance issues, as with the TSI programs.

- Although all of the four class members had SNAP benefits, three class members at the TSI program had lingering problems with food/Nutrition issues. For example, AF refused to use his SNAP; AP refused to be engaged in learning to shop and prepare his food, and EW needs prompts to eat three meals a day.

- In the area of money management AF and AP refused to be engaged in budgeting their money, while for EW this is not a priority at this time.

- Three of the class members had made significant progress in medication management and compliance with medical and mental health appointments, except for EW who still requires prompts to take his medications and his appointments. AP attends PROS and SS attended a Continuing Day Treatment program while in the CR that she still attends.

- In terms of ADLs and maintaining their living unit, AP, AF as well as EW (despite having an HHA), needs reminders to keep the area clean and uncluttered. SS had a very positive relationship with her aide, who was Spanish speaking, and helped her to clean her area and do laundry, and also provided her with friendship.

- AF and EW have ongoing problems with isolation from others, both preferring to stay in their rooms and not engage in social activities with others. On the other hand, AP is very sociable, and SS addressed her initial problems in this area in treatment planning.

2. CR-SRO

As in the Congregate treatment programs above, upon admission to the CR-SRO each of the four residents in our sample (AC, DM, MR, MT) was assessed and a treatment/support plan was

crafted to address the areas that require attention to facilitate transition to more independent housing. The support plans are reviewed and revised every three months and changes are made to reflect their progress toward the achievement of their goals. As of August 1, 2018, the four class members have been in the CR-SRO between two and two and a half years, and only AC is projected to move to Supported Housing, which is expected in the near future.

- AC, 64 years old, was referred to Level II Housing in part because of a concern over his gambling and lack of money management skills. His housing counselor meets with AC monthly to set up a budgeting system. When interviewed, he said he liked living at Kizzy House, and spoke positively about learning to budget his money. He attributed this to an envelope system that was enacted at the home to assist him in managing the $105/week, which is split up in weekly increments, after he generally spends his $166 PNA right away. Although AC still has significant issues with money management, there was no mention of him gambling since he has been at Kizzy House. He also had an initial problem with medication compliance, but he now prepacks his medication each week with his housing counselor, holds and takes them on his own. He is expected to move to Supported Housing in the coming months.

- MR's discharge criteria have continually been noted as "interested in transitioning to a more independent setting. Should be ready for movement when she becomes more independent with finances, daily living skills and learns how to manage medications." Her initial treatment plan focused on medication compliance; making and attending all scheduled medical appointments with reminders by her case manager, who provides transportation, as needed; and to work with staff to obtain all necessary entitlements. MR's impediments to transition have included many hospitalizations & ER visits, most due to suicidal thoughts and ideation during her time at Hazel House; leaving AWOL several times including signing herself into a shelter for three weeks in April 2018. MR also continues to struggle with money, although she receives $454/month after program charges are deducted. She reportedly spends money on clothing, fast food, gives it away, and trades her SNAP benefits for "other things." MR seems to be doing little to achieve the mastery of her medications (to self-administer); finances; ADL/Cooking, that would help her to become independent. It is also unclear that the residence has the tools to teach these things to her. Her case manager felt that she is not focused on the goal of transitioning at this time.

- DM is a short, obese, 68-year-old black female initially diagnosed with mental retardation in her early childhood and diagnosed with Schizophrenia in her 30s. She also has multiple medical problems that require treatment by an assortment of specialists. It was very clear from the time of her admission to Hazel House that DM seemed incapable of doing much for herself independently, including showering or cooking. During her stay she was assigned a HHA whose time has increased to seven days a week seven and a half hours a day. Her initial treatment goals as of May 2016 were to develop money management skills; follow an unsupervised medication regimen; and be able to maintain the upkeep of her apartment. The expected deadline for movement to an independent level of housing, such as an ATP, was 12

to 24 months. However, in November 2016 the goals were changed as follows: "to be considered for discharge to an ATP, DM needs to reach the following goals: be comfortable using the telephone in order to contact community resources such as transportation services including 911 in case of an emergency and obtain the required documentation to submit an HRA application." The treatment goals no longer focused on developing money management skills; medication management; and her ADL skills. The most recent Service Plan of May 1, 2018 had the same discharge criteria with a projected time for movement again noted as 12-24 months. It is clear that her relationship with her HHA, and the need for it to continue unchanged, directs her thoughts about transition to more independent setting. When staff speak to her about Apartment Treatment, they say she would have to share an apartment, which DM says she would not do, and would prefer to remain at Hazel House with her HHA.

Both the Assistant Director and her case manager do not see Ms. M leaving Hazel House. Given her level of dependence on her HHA and lack of her desire to be independent in any of her ADL, it is reportedly not realistic to see her moving to a more independent level of housing.

In reviewing the living conditions of the residence, satisfaction of the resident, and ability to successfully navigate each of the various areas of his residential life of the four class members living in a CR-SRO (AC, DM, MR, MT), we found the following:

- Each of the class members was satisfied with the neighborhood they were living in, with DM liking that the Church and her mental health program were on the grounds of CPC and AC and MR were able to access public transportation easily, and shopping was close for all.

- As regards their living space, the common areas at Kizzy House for AC & MT, had no cushions on the couches due to a pervasive bed bug problem. In addition, MT has a small bedroom that was cluttered with clothing and food, and her walls were scratched up from her writing on them.

- DM lived in a small studio apartment that she was very happy with, despite being cluttered with many boxes containing her adult diapers, and the living room of the two-bedroom apartment that MR shared was extremely barren, containing only a couch, coffee table, TV, and a small table under the TV.

- All four class members receive full SNAP benefits, although AC's took six months and DM had a problem with her benefits card that her CC helped resolve, and all but AC are on meal plans at their residence.

- Budgeting and money management is a problem that AC resolved with a system that allocates money to him weekly, while MT is described as a shopaholic and a hoarder who spends her money within a day or two, and MR within a week or two.

- AC self-administers his medications, and along with MR receives long acting injections at their clinic. The others receive their medications with supervision. MR is compliant most of the time, and MT, who does not think she needs them, requires constant reminders/supervision, or reportedly would discard her medications and not take them.

- All attend their medical and mental health appointments, with MT attending day program twice a week, and MR attending daily.

- AC and MT each have an HHA two days a week for several hours each day for cleaning and laundry; while DM is totally dependent on her aide service which is provided daily for 7 ½ hours/day. AC also requires reminders from staff to bathe and maintain his personal appearance.

Of the four class members living in the two CR-SRO's visited, Kizzy House and Hazel House, AC and DM expressed overall satisfaction with living there; MT described it as "so-so"; and MR through her talk and actions has had a very mixed experience.

3. Apartment Treatment

The two class members who we visited in Pibly's ATP, EG and AT, transitioned from their adult homes during April and May 2016, respectively. Both class members were recommended and approved for Level II Housing, with EG recommended for CR-SRO and AT for Congregate Treatment, but both transitioned to Pibly's ATP.

- During the time that EG, 55 y/o, was in the ATP the most critical goal was to improve his compliance with medications, which was the primary reason he was recommended for Level II Housing. There was particular concern with him being able to take his insulin injections. To achieve this staff came in five days a week to monitor/assist him with his medications. He attended a mental health clinic where he saw a therapist and a psychiatrist but had a dispute with his therapist and stopped seeing him, continuing only to come for monthly medication renewals.
  While in Level II Housing, EG acquired the skills he needed to move to Supported Housing, which included being able to maintain medication compliance, maintain good physical health and his ADL skills. He did this while he also had medical hospitalizations for almost five weeks after a bad fall and a several month rehabilitations stay in April 2017. While he was in the rehabilitation facility, there was already a plan for him to move to Supported Housing, but since he still had difficulty walking after he left rehab, they had to find another apartment without stairs. He was in the ATP for 1 ½ years before being moved to Supported Housing during October 2017.

- AT's care plan goals focus on his taking his medication and attending treatment appointments regularly to avoid hospitalization; managing his diet to maintain overall wellness; reduce his tobacco use with the goal of cessation. His AH+ CM, who generally sees him twice weekly, was working with his housing counselor and the day program to address his anger management and effectively deal with crisis situations and avoid any form of confrontation with his roommates, which has been a problem for him while in Apartment Treatment. The record also indicates that AT has a long-term memory deficit which makes it difficult for him to remember things. He attends mental health and medical appointments on his own in Manhattan, seeing his therapist twice a month, and his psychiatrist monthly.

Both EG and AT said that they were happy to leave the adult home and spoke positively about living in the ATP. AT lives in a 2-3 family house, on the ground level which has safety gates on the windows and shares an apartment with two other apartment mates. The living room had two sofas and a coffee table, a television with cable, for which Pibly pays. There were blinds and curtains on the windows. The apartment looked clean, however, there is an ongoing problem with mice, which we observed during our visit. AT did say the apartment is regularly exterminated and there are traps, and he did not seem bothered by it. We did not observe EG's apartment as he had already moved to Supported Housing.

Both class members had initial issues with SNAP which were resolved, and AT struggles with managing his money, primarily due to the cost of cigarettes, as he has struggled with his goal of smoking cessation. This also impacts his ability to make his money last for the month, and he had borrowed money from a roommate, which he did repay. EG's housing notes indicated that while in ATP he was telling his CC and housing counselors that he was attending all appointments. However, his therapist had dropped him after he did not return following a verbal dispute, and at one point it was mentioned that he only went to get his medications from the nurse practitioner. Since his move to Supported Housing he sees a new psychiatrist monthly and does not see a therapist.

Both class members have had issues with their roommates in ATP. In March 2018 when AT's roommate's aide asked him to stop smoking in the apartment (as he had previously burned holes in his bed sheets) and he refused, the roommate and he got into an altercation which resulted in AT being hospitalized. Upon discharge they discussed the incident and he was allowed to return to the apartment. AT has continued to work on his goals to move to more independent housing. However, as mentioned above, he has a memory deficit which makes it difficult for him to remember things, such as the names and dosages of his medications, etc. which is preventing him for progressing more than he has. In spite of making some progress, there was no indication that he is ready to move to Supported Housing any time in the near future.

In his first apartment, EG had an issue with the heat, as one roommate liked it hotter in the apartment than he did. Progress notes indicated he was considering moving back to Riverdale Manor because of this, which Pibly staff addressed by moving him to another apartment. He also got into multiple disputes with a roommate in the 2nd ATP apt. which threatened his ability to

remain there. However, he apologized to his roommates and was allowed to stay but remained eager to move to Supported Housing which he achieved in October 2017.

D. How are they doing in Supported Housing?

Of the 10 class members in our sample, as mentioned above, SS and EG have transitioned to Supported Housing, where we visited them during our study. Below is a brief summary of how they have been doing since their move from their Level II program.

- SS, 53 y/o Hispanic woman, is most comfortable speaking Spanish but also communicates in English. She moved to a two-bedroom apartment in a residential Staten Island neighborhood two months prior to the visit with her during April 2018. The apartment was attractive, and she was very happy there. With the assistance of her housing case manager who helped to translate during our visit, she said that as much as she loved Chait House, she felt "more relaxed here….and nobody bothers you." She was her own representative payee and managing her additional income well. She was independent in taking her medications, which took her a long time to learn and she and her case manager agreed she was now good with her inhaler. She still goes to the CDT five days a week where she liked to draw and listen to music. She gets breakfast and lunch there and she is also able to cook something for herself that she learned at Chait. She is also helped by her aide, whose hours were reduced to three days a week for four hours a day, from five days/three hours. However, she is not happy with her new HHA, who is not Spanish speaking, and said she is trying to get that changed. She knew her roommate from the adult home, but they were not friends. She said they get along well, although they do not do much together and both have HHAs that assist them.

- EG currently lives alone in a small one-bedroom apartment that was clean and nicely furnished. He decorated the walls in the hallway, living room and bedroom with posters of musical groups/musicians that he likes. The neighborhood is a residential area in the Bronx with a main street with a few stores a few blocks away. EG stated there are some delis, a pizza place, a Laundromat two blocks away, a grocery store four blocks away, and a subway within a few blocks, but he does not use it. He said it is a quiet, safe area but he would like an ice cream shop, movie theater and fast food restaurants closer. He said he had picked out another apartment and furniture that he liked better in another area but could not move there after the fall because it had too many steps. Although it was recommended that he receive physical therapy prior to surgery, he was having trouble finding anyone that would see him before September 2018. He says he stays pretty much to himself and is not interested in doing much. He said someone comes in twice a month to check his medication blister packs, and he was always able to cook on his own. He is his own representative payee, enjoys getting over $550/mo. after his rent is taken out, and never runs out of money. He sees a new psychiatrist and medical doctor since the move and is not seeing a therapist. His primary concern was finding a physical therapist. EG was stepped down from AH+ CM in July 2018 and his current CC maintains monthly contact with him by phone. He said that he works primarily on setting up appointments for EG and made a PT appointment for him at Montefiore Hospital for September 17, 2018. The CC reported that EG is doing well in

Supported Housing and is taking his meds, going to appointments, and his program. He also said he is good at advocating for himself when he needs something.

Appendix E. The State's Comments on the Draft Report

State's Comments on the Independent Reviewer's Draft Fifth Annual Report

The State has reviewed the Independent Reviewer's Draft Fifth Annual Report ("Draft Report") and appreciates the comprehensive attention provided to each aspect of Settlement implementation. With respect to the specific recommendations set forth in Section X of the Draft Report, the State responds as follows:

I. Housing

a. Other Housing Providers: The Independent Reviewer proposes that when a housing contractor under the Settlement cannot find housing meeting a class member's needs within 120 days, the State should issue a "request for proposals" to other housing providers with housing in the preferred area. If a class member accepts an apartment offered by one of these providers, the responsibility for providing housing for that class member and the associated funding will be transferred to that provider.

The State agrees that given the New York City housing market and low vacancy rates, the availability of units presents a serious challenge. For these reasons, as noted in the State's last two quarterly reports, the State has applied a 15% increase to the OMH Supported Housing rental stipends for new apartments funded under Phase II of the Housing Contracts. Further, the State is working with the Independent Reviewer on a project to map where housing contractors obtain affordable housing. This will serve as a tool to enhance the efforts of housing contractors to identify areas where apartments may be available, help class members decide where they might want to move, and help the State better understand where the gaps are.

The State does not believe the proposal in the Draft Report can be implemented as described, since the funding for units were granted to the eight housing contractors through contracts awarded pursuant to a procurement process governed by statute. Nevertheless, the State is committed to continuing to expand the availability of housing under the Settlement and agrees with the general idea of seeking flexibility to work

with other housing providers to meet individual class member preferences. The State will give this further consideration and provide a further response to the Independent Reviewer and Plaintiffs' counsel by April 7, 2019.

b. Apartment Treatment Beds: The Independent Reviewer suggests that to address the shortage of Level II housing, the State could authorize an increase of at least 50 Apartment Treatment beds under funding dedicated to implementation of the Settlement. These beds would serve as permanent housing for class members, with the intensity of supervision and support services being reduced or withdrawn as a class member's needs change. The beds could begin as a higher level of supervised housing as needed when a class member transitions from an Adult Home and potentially be converted into traditional Supported Housing over time.

To address the shortage of Level II housing, as noted in previous quarterly reports, the State has focused on promoting backfill opportunities and has enhanced its data reporting mechanisms so it can better track how long individuals wait for or occupy Level II units. The Independent Reviewer's suggestion of a flexible Apartment Treatment setting bears further consideration and the State will provide a further response to the Independent Reviewer and Plaintiffs' counsel by April 7, 2019.

II. Incident Reporting a. Incident Reporting: The Independent Reviewer recommends that the State extend the incident reporting requirements established under the Supplement to all transitioned class members for the duration of the Court's active supervision over the Settlement. The reporting requirements currently apply only to transitioned individuals receiving Adult Home Plus care management. The State recognizes the importance of supporting class members who have transitioned to the community. For those individuals who transitioned and were not or are no longer enrolled in Adult Home Plus care management, the State will identify additional supports to assist them when it learns that they are experiencing difficulty remaining stably housed in Supported Housing or are experiencing conditions that endanger their health or safety. A need for additional supports will likely be identified by Settlement housing contractors, which requires at least monthly contact with class members who transitioned and additional contact when circumstances require it under the Supported Housing program. In

these cases, the State will work with providers to identify appropriate measures to assist the individual, such as enrollment in Assertive Community Treatment ("ACT"), or Health Home Plus care management (which has a caseload ratio of no more than 15:1), assignment to a Pathway Home team, a temporary stay in respite housing, a transfer to Level II housing, referral to PROS or other services, and/or inpatient psychiatric admission. b. Incident Review Metric: The Independent Reviewer recommends that the State establish a 60-day metric for completion of its review of reported incidents and investigations. Cases that remain open past the 60-day deadline should be reported on a monthly basis to the CRC, along with the reasons why they remain open. The State agrees with this recommendation and will implement it beginning with the incidents reported in Quarter 19.

III. State Monitoring and Enforcement Activities a. Written Space Plans: The Independent Reviewer suggests that the State require each Adult Home to submit a written plan addressing available space and access to class members for confidential conversations to enable in-reach staff, assessors and Peer Bridgers to perform the functions required by the Settlement Agreement and the Supplemental Agreement. The State agrees that it is imperative that all Settlement providers are able to carry out their work assisting class members unimpeded. As previously recommended by the Independent Reviewer and Plaintiffs' counsel, the State is convening meetings between representatives of the Peer Bridger agencies (Community Access and Baltic Street) and the 22 Impacted Adult Homes to address issues related to space and access on a proactive basis. As recommended by the Independent Reviewer, the State also will require a written plan related to space and access for providers from the Adult Home.

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b. Reporting Discouragement: The Independent Reviewer proposes that

any adult home with two or more substantiated instances of interference or discouragement should be reported to the Court for appropriate action for violation of a court order.

The State takes very seriously any conduct constituting interference or discouragement by Adult Homes. The State has repeatedly reiterated to Adult Homes that such conduct is prohibited, both in writing and verbally. The State investigates allegations of such conduct and takes appropriate action, as evidenced by the citations listed on the appendix submitted to the Court with the State's quarterly reports. The Court of course may take whatever action in response to this information it deems appropriate. The State is also prepared to refer an Adult Home to the Court in appropriate circumstances.

The State also continues to remind all settlement implementation providers who have a presence in Adult Homes that they are required to promptly report any instances of interference and discouragement. As noted below, the State will be conducting training sessions for providers on the requirements of the Settlement, which will include an additional focus on this topic. The State will reiterate that providers should call the Department of Health's Office of Community Transitions ("OCT") with any concerns, even if they are not sure whether a concern constitutes interference and discouragement or rises to the level of a formal complaint. OCT will help achieve a resolution of the concern and track each concern; if a formal complaint is warranted, OCT will submit it on behalf the provider if desired.

c. Document Delays: The Independent Reviewer notes that the State should take enforcement action against any adult home that repeatedly creates unreasonable delays in providing documents required by assessors that are within its custody.

The State agrees and will take enforcement action when instances of delay in the provision of records by Adult Homes are reported. Further, the State considers the failure of an Adult Home to provide assessors with appropriate documents on a timely basis to constitute discouragement and/or interference. Providers will be reminded at the upcoming training session that this type of conduct is prohibited and must be reported to OCT for appropriate action.

d. Employment Process: The Independent Reviewer indicates that the

State should review and expedite the current process for background checks for staff being hired to perform functions required by the Settlement.

The State has successfully expedited this process for the peer agencies who are hiring Peer Bridgers, which had identified this as a concern.

e. Settlement Provider Training: The Independent Reviewer suggests the State make sure that personnel who perform in-reach, assessments, care coordination, case management and Peer Bridger services are fully trained in: (1) the requirements of the Settlement, including the Supplement; (2) the services and supports available for different types of housing available to class members; (3) as appropriate, the use of PSYCKES; and (4) as appropriate, the preparation of HRA applications.

The State has provided ongoing training in the requirements of the Settlement and the services and supports that are available to class members in the community. Beginning in early April, the State will conduct a training session (in person and/or by webinar) for

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AH+ care managers, housing contractor in-reach staff, housing contractor assessors, housing contractor case managers, Peer Bridgers, and Pathway Home teams in these areas. With regard to training in PSYCKES and HRA applications, housing contractors provide on-site orientation and assistance to their assessors who use PSYCKES, and providers responsible for making submissions to HRA have received training provided by HRA.

f. CRC Process: The Independent Reviewer recommends the State ensure that all frontline staff engaged in implementing the Settlement are informed about the Case Review Committee (“CRC”) process, and that case managers, care coordinators and in- reach staff in adult homes are informed when class members on their caseloads are referred to the CRC.

As the Independent Reviewer suggests, the State is finalizing a set of Frequently Asked Questions, which shortly will be distributed to providers, explaining the CRC process and highlighting the need to communicate with class members impacted by that process. The State also will advise

Settlement providers working with class members when their cases are referred to the CRC. This topic will also be covered in the training session mentioned above.

g. Duplicative Reporting: The Independent Reviewer suggests the parties review the Supplement's reporting requirements for process metrics and consider amending or eliminating reporting that is duplicative or unnecessary if otherwise available in the State's Quarterly Report or other reports.

The State agrees that it would be beneficial to eliminate duplicative reporting and is developing a proposal, to be provided to the Independent Reviewer and Plaintiffs' Counsel, to combine the monthly 180-day process metrics list with the State's twice- yearly six-month transition metrics review into one monthly list. The transition metric calculation would still be accomplished at the end of a six-month period but combining these two reports into a monthly submission will be more efficient and will ensure that the information reported is relatively recent. This will allow the State to further focus on more immediately addressing any obstacles that come to light as a result of the review.

IV. Peer Bridgers

a. Training: The Independent Reviewer recommends the State should coordinate with the peer-run agencies to make sure that Peer Bridgers are trained on the Settlement, the Supplement, and the adult home system. The Independent Reviewer also encouraged including housing contractor staff, especially peers who conduct in-reach, in the training.

The State agrees and will ensure that such training is provided as part of the upcoming training sessions noted above.

b. Discouragement and Interference: The Independent Reviewer recommends that the State train Peer Bridgers on identifying incidents of discouragement and interference and how to report them. The Independent Reviewer further stressed that the State should support the peer-run agencies in seeking help for "reportable" or more serious incidents as well as incidents that may not reach the "reportable" threshold but nevertheless impede access to and work with class members.

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The State agrees. The Peer Bridgers have been provided with the booklet entitled *Rights of & Access to Adult Care Facility Residents*, which provides information on access to residents in Adult Homes, and were advised that any concerns they have should be brought to OCT. The State will reiterate these points in the upcoming training refresher sessions. Further, class counsel has offered to and shortly will provide training on resident rights to the Peer Bridgers.

Appendix F. Plaintiffs' Comments on the Draft Report

VIA ELECTRONIC MAIL

March 19, 2019

Clarence Sundram cjsundram@gmail.com

Re: United States v. State of New York (13-cv-4165); O'Toole et al. v. Cuomo et al. (13-cv-4166)

Dear Mr. Sundram:

We write on behalf of the United States and the class plaintiffs to provide our comments regarding your fifth draft annual report in the above-referenced cases. As always, we appreciate the attention and thoughtfulness that you have put into the draft report.

We offer the following comments on specific sections in the draft report:

Section III. We assume that the report will note on page 8 (as it already does on page 10) that the Temporary Restraining Order in *Doe v. Zucker* has been lifted and that 18 NYCRR §§ 487.4(d) and 487.13(c)-(g) are in effect.

Section IV. In the discussion of Quality Assurance, it would be useful to add a short section on the importance of analysis and development of qualitative understanding of the data generated by the Process Metrics. The State's Quarterly Report fails to provide any discussion of the problems identified by the data much less a root cause analysis of those problems.

Section VI.B. As conveyed to the State at the March 7, 2019 Parties' Meeting, Plaintiffs are deeply troubled by the State's failure to report or

address the serious interference and discouragement at New Gloria's Manor. The State should provide a written report to the Independent Reviewer and Plaintiffs explaining how and why this interference occurred, when and how the State became aware of it, and what lessons can be learned to ensure that Peer Bridgers and other settlement implementation providers have access to all homes, including New Gloria's.

Section VII.B. If the failure to fully staff the housing contractors' assessment teams is having any impact on the housing contractors' other functions, particularly their transition-related functions, we think it would be helpful for the report to note that.

Section VII.C. In discussing obstacles to completing assessments, the report states that housing contractors have varying levels of success building rapports with adult home staff. (P. 25). It also states that some contractors have problems obtaining residents' records from certain homes. It may be useful to identify which homes.

Given the Independent Reviewer's observation that the pace of transitions "is unlikely to change as much as needed unless there are significant changes made to the manner in which appropriate housing is found and matched to class members' needs and desires," p. 33, we recommend that the report address the requirements that providers individualize their efforts to engage residents based on their understanding of residents' concerns, preferences, and needs, and that providers maintain sufficient contact with residents to enable them to understand residents' concerns, preferences and needs, Supplement Sec. F.3.a. We also recommend that the report address the requirement, set forth in section F.3.c of the Supplement, that the State make its best efforts to improve the rate of Adult Home Plus Care Managers' presence during assessments. The Supplement notes that the Independent Reviewer will evaluate this goal in his annual reports.

Section IX. When discussing the three-month extension of the assessment decision and assessment notice dates, it may be useful for the report to note that if problems persist with housing contractor staffing, in-reach, or

implementation of the Peer Bridger program, it could be necessary to revisit those deadlines again to determine whether an additional extension is warranted.

Section X.I. We understand that the Independent Reviewer is in the process of surveying the housing contractors to, among other things, explore the impact of the increased subsidy on the availability of supported housing units that meet class members' preferences and needs. We think it may be worth noting the forthcoming study in this section, especially if the Independent Reviewer expects to make further recommendations.

Sections X.II and X.III. Plaintiffs just learned via a CRC Review of a Level II recommendation about one incident that was not reported as part of the State's Quarterly Report or Incident Tracker reporting obligations: the request by D.O. to return to Wavecrest in October 2018 (subject of Level II call on 3/12/2019). We are concerned that there may be other holes in the State's reporting. We request that, along with specific recommendations the Independent Reviewer makes for reducing duplicate reporting obligations, the Independent Reviewer team share any recommendations that could help ensure complete reporting.

Thank you again for drafting such a comprehensive and well-researched annual report. We are available if you would like to discuss our comments in more detail.

Sincerely,

_____/s/_____

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