

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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

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)	Civ. Action No. 13-CIV-4166 (NGG)
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.)	

**SIXTH 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.

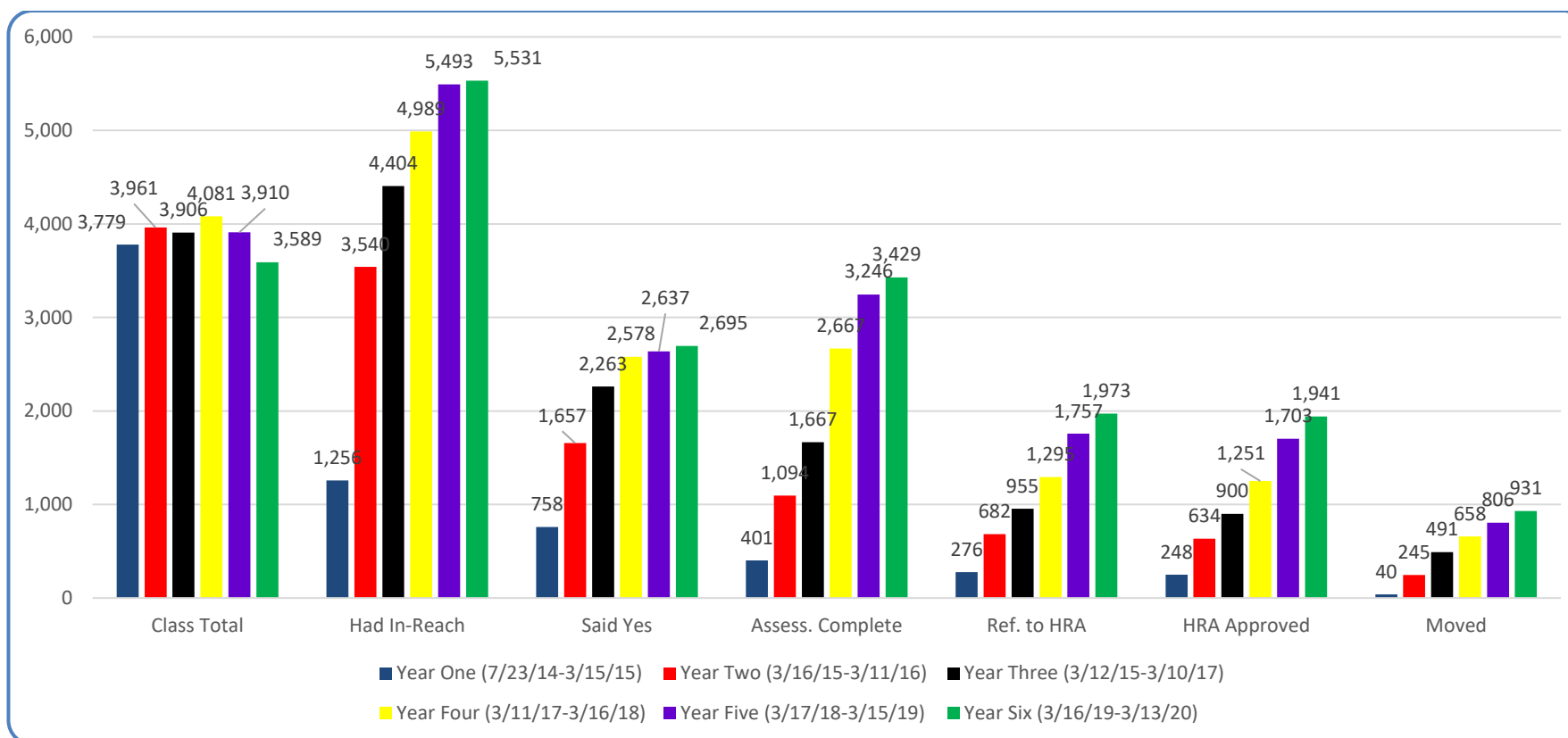


Fig. 1. Summary of progress 2014-2020¹

¹ Vigilant readers will note that the data for Year Five differs slightly from what was reported in the previous annual report. Due to an editing error in that report, the draft report, which contained data as of December 14, 2018, was not updated when the report was finalized with data that was current as of March 15, 2019. That error has been corrected in this report. All of the data contained in this report has been provided by the State Defendants in response to requests made by the Independent Reviewer.

Executive Summary

As we look back on the past six years, it is a source of some satisfaction that almost 1000 class members have taken advantage of the choice offered to them by the Settlement Agreement and moved to supported housing or other alternatives in the community, although there is much that remains to be done. The Independent Reviewer team has consistently found in our annual reviews that, despite some exceptions, the class members we visited are generally happy with the choice they made to leave the adult home. This does not mean that their lives in the community are trouble-free. Class members who rely on public benefits like SSI and Medicaid have limited amounts of money available to them, especially in an expensive urban environment like New York City. Of necessity that constrains their choices, as it does for all people of limited means.

Dealing with their own and their housemates' serious mental illness, sometimes compounded by substance abuse, also creates challenges for them and for the providers who support them. Nonetheless, only a small minority of such experiences have resulted in a move from supported housing either to a higher level of care or a return to the adult home.

Despite the overall success of this program in resettling class members in supported housing or other community alternatives to the adult home, it is of concern that some of the same structural and process problems that impeded fuller progress in past years still persist. This report describes the improvement in the time for class members to move through the various stages of a complex process, but from the class member's perspective, the overall time from in-reach to a move continues to be inordinately long (Fig. 9). The numbers of class members being transitioned to the community has continued to decline in each of the past four years (Fig. 4).

The parties and the Independent Reviewer are once again examining the whole process with a view to streamlining it and making more choices available to class members. The State has already committed to increasing the supported housing rental stipends by 15% and, in light of the significant subset of class members with mobility impairments, has agreed to a \$500 a month accessibility supplement to help in the search for suitable housing for these class members.

One of the significant challenges that must be tackled is engaging the large cohort of class members --more than half the class-- who have either shown no interest in transitioning to community services, or having once expressed interest, have dropped out. It is likely that many of these class members have experienced discouragement from families, service providers and/or the complex and time-consuming transition process itself. The State and the settlement providers need to develop a plan to enable these class members to fully consider their options and make an informed choice of whether to remain in the adult home or transition to the community with appropriate and dependable support services.

Discussions on reengineering the process remain a work in progress as this report is being drafted and have been affected by the COVID-19 crisis that has shut down or delayed the work activities of public and private employers. The Independent Reviewer has offered the parties several recommendations to guide their effort and both Plaintiffs and Defendants have expressed general agreement with them.

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I. Introduction

This Report assumes the reader's familiarity with the Settlement Agreement,² which has been described in previous annual reports.³ 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.

The events leading up to the filing of a Supplemental Agreement in March 2018⁴ and its major provisions were described in the previous Annual Report⁵ and will be referenced as necessary in subsequent sections of this Report.

The State Defendants have made substantial progress in implementing the provisions of the Supplemental Agreement and have either achieved compliance or come close to compliance with many of the newly created metrics. (*See*, Process Metrics, Section IV) Nevertheless, despite this progress, the number and pace of transitions from adult homes to supported housing or other community-based alternatives has remained low and declining. (*See*, sections V and VI) As this Report is being drafted, at the urging of Judge Garaufis, the Independent Reviewer and the Parties are once again engaged in discussions to further streamline and improve the implementation of the Settlement Agreement and Supplemental Agreement.

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 the staff of housing contractors, Health Homes, MLTCPs and Peer Bridger agencies.

² Stipulation and Order of Settlement, Doc. # 5, filed July 23, 2013 in 1:13-cv-04166-NGG-MDG.

³ 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;" Independent Reviewer's Fourth Annual Report, Doc. # 145, filed April 2, 2018, hereinafter "Fourth Annual Report;" and Independent Reviewer's Fifth Annual Report, Doc. # 229, filed April 3, 2019, hereinafter "Fifth Annual Report."

⁴ 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

⁵ Fifth Annual Report; pp.6-7.

- The conduct of four quality assurance or other reviews. These focused on incident review activities,⁶ the Peer Bridger program (see section VIII. B and Appendix B), housing contractors' apartment procurement practices (see section VIII. E) and the experiences of 12 class members who had transitioned to supported housing. (see section VIII.A).
- Meeting with more than 71 class members during the conduct of focused reviews and visits to adult homes and post-transition residences.
- Reviews of assessments and care plans for 437 class members through participation in post-assessment, 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.
- Participation with the Parties in focused conversations about process improvements to better achieve the aims of the Settlement Agreement.

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 transitional 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, p. 2) The regulations effectuating this intent had 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 had continued.⁷ 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. Significantly, the Supplemental Agreement between the Parties in March 2018 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. As discussed below, the State has also tightened the admissions process to prevent such admissions in the first place.

⁶ Review of Defendants' Implementation of the Incident Reporting and Review System as Required by the Supplement to the Second Amended Stipulation and Order of Settlement, Doc. # 167 filed in 1:13-cv-04165-NGG-ST, July 9, 2019.

⁷ *Doe. v. Zucker*, Index. No. 07079/2016, Supreme Court, County of Albany. As discussed below on p. 10, the TRO was lifted on January 4, 2019, and the regulations are once again in effect.

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. Of note, the Temporary Restraining Order that had been in place since February 16, 2017, was lifted in January 2019 and the regulations barring new admissions to these adult homes were once again in place.⁸ 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)) However, persons with serious mental illness have continued to be admitted to the transitional adult homes even after the Temporary Restraining Order had been lifted and the State regulations went back into effect.

The Parties recognized that there was a twofold problem leading to this result, one of process and one of definition. First, adult homes report on admissions on a monthly basis, with the State receiving this information several days to weeks after the end of each month. The State then reviews the information submitted by the adult home regarding the diagnosis of each new person admitted. In addition, the State also reviews Medicaid claims data to determine whether the newly admitted persons have had a history of receiving mental health services. The end result is a determination whether to add the person to the class list. This retrospective review resulted in many persons who meet this screen for serious mental illness being admitted to the adult homes despite the regulations. (See Fig. 2 below) While the State DOH could and did invoke its enforcement process to deal with regulatory violations,⁹ this process is unsuited to a quick and effective achievement of the desired result of preventing improper admissions in the first place.

The second aspect of this problem is that the screening criteria for the presence of serious mental illness being utilized in this process were believed to be too broad. Consequently, on October 4, 2019, the State DOH promulgated new regulations creating a preadmission screening process with a tighter definition of serious mental illness. The new process prohibits Transitional Adult Home operators from admitting a prospective resident without first requesting preadmission screening from the DOH and, in appropriate cases, conducting or obtaining a mental health evaluation. The purpose of these new regulations was to prevent the admission of persons with serious mental illness to these adult homes, while also creating more precise operational definitions of serious mental illness using the Health and Recovery Plan (“HARP”) eligibility criteria.¹⁰ These

⁸ *Doe v. Zucker*, Doc. # 81 filed January 4, 2019 in Case 1:17-cv-01005-GTS-CFH (N.D.N.Y.).

⁹ According to a monthly report on admissions filed by the State for November 2019, 188 admissions were referred for enforcement action. Of these cases, 174 had occurred in the period between January 26 and June 30, 2019, 10 occurred in July and August 2019, three in September and one in October 2019. (Case 1:13-CV-04166-NGG-ST, document 246, filed November 29, 2019) No additional referrals were reported in monthly reports for November and December 2019.

¹⁰ The emergency regulations also appear on the Department’s website at:

https://regs.health.ny.gov/sites/default/files/pdf/emergency_regulations/Transitional%20Adult%20Home%20Admission%20Standards%20for%20Individuals%20with%20Serious%20Mental%20Illness.pdf. 2. The proposed

regulations had the effect of reducing the numbers of new admissions of persons with serious mental illness to the transitional adult homes. See Fig. 2.

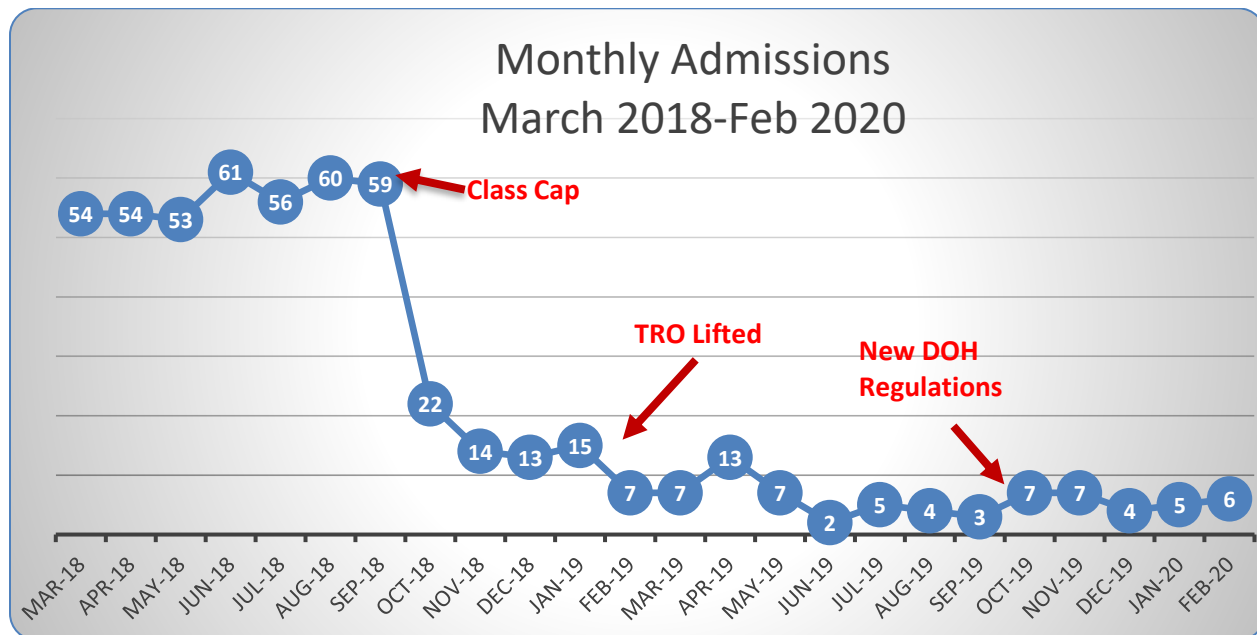


Fig. 2 Monthly admissions of persons with SMI

The class list which was reported to the Parties and the Court on June 10, 2014 contained 3,874 names (Doc. # 30-1). As described above, the DOH has periodically updated the class list based on rosters that it receives from the adult homes reflecting admissions, discharges and deaths.

Grand Total class members	6,853
Non-SA discharge	-2,106
Deceased	-788
Not a class member–no SMI	-370
SA transition	-931
SA transition but returned to adult home	+62
Current active class members	2,720

Table 1. Active Class Members

regulations also appear on the Department’s website at <https://regs.health.ny.gov/sites/default/files/proposed-regulations/Transitional%20Adult%20Home%20Admission%20Standards%20for%20Individuals%20with%20Serious%20Mental%20Illness.pdf>. 3

The most recent class list as of March 13, 2020, requested by the Independent Reviewer, contained a total of 6,853 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, it overstates the number of people who are eligible to be transitioned to supported housing or other alternatives pursuant to the Settlement Agreement. Removing these leaves 2,720 "active" class members eligible for assessment and transition as of March 13, 2020, as displayed in Table 1 above. As the data in Table 1 indicate, overall deaths and non-transitional discharges far outpace the rate of Settlement Agreement transitions, as shown in Fig. 3 below.

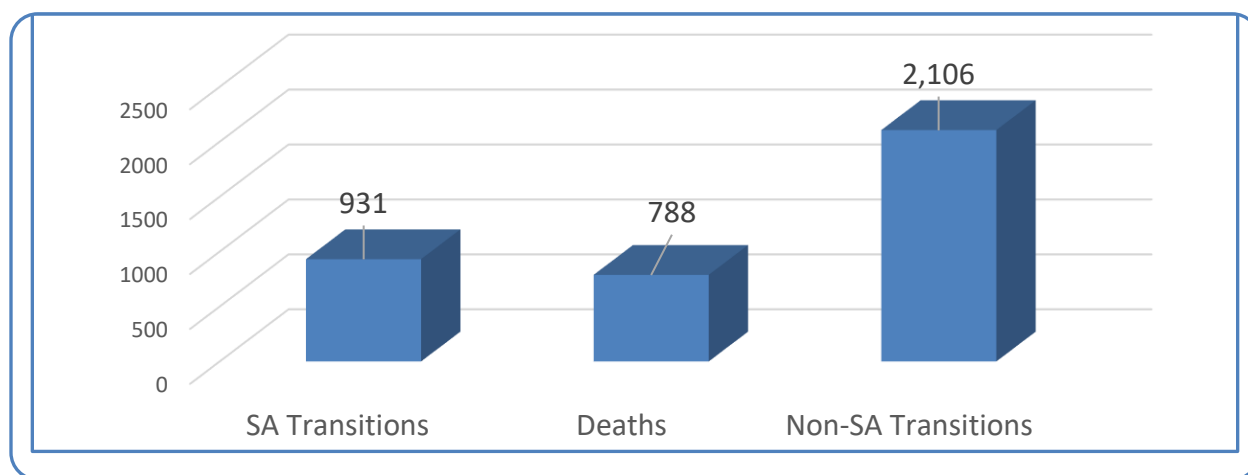


Fig. 3. Deaths, non-transitional discharges and Settlement Agreement transitions

In addition to a class cap, the Supplemental Agreement also creates a “Decision Date” 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 bridges 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 repeated extensions of the Assessment Decision Date from the original September 30, 2019 date (Supplemental Agreement, G.2). By a minute order entered on September 27, 2019, the date was extended to June 30, 2020, and an application for a further extension appears likely.

IV. Process Metrics

The original July 2013 Settlement Agreement identified only two measurable benchmarks of success: by July 2017, within four years, at least 2,500 class members would be assessed and,

if appropriate, transitioned to the community; and by year five, July 2018, the remainder of class members would be assessed and transitioned if appropriate.

The March 2018 Supplemental Agreement addressed the dearth of measurable performance standards. It established benchmarks and set forth specific timelines for the performance of various transition-related activities and thresholds for compliance. Among the activities for which metrics were established were in-reach, assessment, enrollment in care management, the conduct of housing interviews and apartment tours and, ultimately, transitions to the community.

As indicated in the following discussion, since the Supplemental Agreement, the State has made considerable progress toward achieving many of the benchmarks within the transition process. But one, the most critical, continues to be elusive: transitioning class members to the community.

1. In-reach and Referral for Assessment

The Supplement required that newly admitted residents to adult homes be in-reached within one month of being added to the Community Transition List (CTL).¹¹ It also required that *all* residents who receive in-reach and agree, or do not refuse, to be assessed will be referred for assessment within five business days. (Supplemental Agreement, paragraph B.2.a, and b)

Beginning with Quarter 16, the first Quarter within which the Supplemental Agreement was in effect, quarterly reports provided by the State indicate that it has achieved these benchmarks in the vast majority of cases. See Tables 2 and 3.

Category	QTR 16	QTR 17	QTR 18	QTR 19	QTR 20	QTR 21	QTR 22
Newly admitted residents added to CTL	62	138	94	6	10	2	1
Deceased or Discharged within one month	5	12	9	2	2	2	0
Newly admitted residents not deceased or discharged	57	126	85	4	8	0	1
Percent of newly admitted residents who received in-reach or in-reach attempts with one month	68%	99%	100%	100%	75%	N/A	100%

Table 2. In-reach within one month

¹¹ The CTL is prepared by the Department of Health (DOH) and identifies adult home residents who appear to have serious mental illness based on information provided by the adult home and Medicaid data claims researched by DOH.

Category	QTR 16	QTR 17	QTR 18	QTR 19	QTR 20	QTR 21	QTR 22
Total referrals for assessment	291	207	154	126	112	78	81
Percent of referrals made within five business days	73%	76%	99%	98%	93%	83%	98%

Table 3. Referral for Assessment Following In-Reach

2. Assessments

The Supplemental Agreement required that of the members referred for assessment, 85% shall be assessed (or the assessment closed out) within 60 days of the referral, and 98% should be assessed (or the assessment closed out) within 120 days.¹² (Supplemental Agreement, paragraph B.2.d)

As indicated in Table 4, since the Supplemental Agreement, the percentage of assessments conducted or closed out within 60 days has ranged from 45% to 79% on a quarterly basis; the range for assessments completed or closed out within 120 days has ranged from 72% to 94%. These data indicate that the State has fallen significantly short of the compliance threshold during the most recent quarter. It should be noted that during the previous quarter, Quarter 21, the Jewish Board of Family and Children's Services, which provided housing and assessment services, withdrew from the Adult Home Initiative. The class members it served were transferred to two other agencies which, in the latter part of 2019, were making staffing adjustments to accommodate the transfers. Of the 27 assessments not completed within 120 days during Quarter 22, 40% involved JBFCFS clients affected by the transfer.

Category	Goal	QTR 16	QTR 17	QTR 18	QTR 19	QTR 20	QTR 21	QTR 22
Assessments		New metrics did not align squarely with period covered in Quarter						
Percent completed or closed out within 60 days	85%		72%	79%	67%	69%	62%	45%
Percent completed or closed out within 120 days	98%		94%	94%	87%	90%	85%	72%

Table 4. Assessments Completed or Closed Out

¹² Assessments can be "closed out" if the individual chooses not to transition, is determined not to be appropriate for transition or refuses to engage in the assessment process. (Supplemental Agreement, paragraph B.4)

3. Enrollment in Care Management

Enrollment in care management and the development of a person-centered plan to assist an individual transition to the community with the needed supports and services (e.g., benefits, linkages to medical and behavioral health care providers, etc.) is a critically important step in the transition process. The Supplemental Agreement required that 85% of members be enrolled in care management at the ratio of no more than 12 class members to one care manager within 60 days of being referred for assessment and 98% enrolled within 90 days of assessment referral. (Supplemental Agreement, paragraph B.2.e)

In both cases, the creation of a person-centered care plan is to begin within these timeframes. The Supplemental Agreement also allowed for exemptions from this expectation: members found not to be seriously mentally ill, members declining assessment, members declining enrollment in care management, etc. As reflected in Table 5, on a quarterly basis since the Supplemental Agreement, 70% to 84% of members were enrolled in care management within 60 days of assessment referral. During the most recent quarter, performance in this regard fell from 84% to 70%. However, over the past six quarters, the percentage of members enrolled within 90 days has consistently been at or above 90%.

Category	QTR 16	QTR 17	QTR 18	QTR 19	QTR 20	QTR 21	QTR 22
Members Referred for Assessment	44	250	212	175	154	144	101
Members not enrolled due to exclusionary criteria	22	147	89	44	37	38	17
Members declining enrollment	0	10	2	7	6	12	13
Members enrolled in care management	22	93	121	124	111	94	71
Percent enrolled within 60 days	77%	76%	78%	83%	80%	84%	70%
Percent enrolled within 90 days	82%	92%	90%	91%	94%	91%	93%

Table 5. Enrollment in Care Management

4. Housing Interviews and Tours

The Supplemental Agreement requires that once a class member is approved to transition to the community by HRA, within two weeks of receipt of the HRA approval, the housing contractor must offer the member a meeting, or housing intake interview. It also requires that within 45 days of receipt of the HRA approval, the housing contractor must offer the member the opportunity to be shown at least one apartment that is available and meets the individual's needs, hopes and desires as set forth in the person-centered plan. (Supplemental Agreement, paragraph B.10)

Category	QTR 16	QTR 17	QTR 18	QTR 19	QTR 20	QTR 21	QTR 22
Percent of members who were offered a housing intake interview within two weeks of HRA approval	60%	70%	75%	91%	87%	85%	84%

Table 6. Housing Interview Offers

As indicated in Tables 6 and 7, during the quarters since the Supplement's implementation, 60% to 91% of class members had housing intake interviews within two weeks of HRA approval and 39% to 65% toured at least one available apartment within 45 days of the HRA approval.

Category	QTR 16	QTR 17	QTR 18	QTR 19	QTR 20	QTR 21	QTR 22
Percent of members who toured or received an offer to tour housing within 45 days of HRA approval	51%	39%	39%	57%	64%	65%	52%

Table 7. Housing Tour Offers

It should be noted that in each Quarter, some of the HRA approvals are for Level II housing. In Quarter 22, for example, 13 of the 77 HRA approvals were for Level II housing. But not all housing contractors provide Level II housing. In these instances, the care manager must apply through the Single Point of Access system in New York City to find available Level II beds offered by different agencies, and the housing contractor is not in control of when housing interviews/tours can be conducted. Such was the case with six individuals (8.0%) in Quarter 22 who did not have housing tours within two weeks.

5. Transitions to the Community

Although the State has made considerable progress toward attaining many of the benchmarks set forth in the Supplemental Agreement, it has consistently fallen short with the one that is the key to the success of the initiative: transitioning class members to the community.

Category	QTR 16	QTR 17	QTR 18	QTR 19	QTR 20	QTR 21	QTR 22
Members who received HRA approval 60 days prior to end of quarter	79	209	126	127	113	78	50
Members who transitioned within 60 days	1	0	4	1	1	1	1
Percent of members who transitioned within 60 days	1.3%	0%	3.2%	0.8%	0.9%	1.3%	2.0%

Table 8. Transitions to the Community

The Supplemental Agreement requires that housing contractors make all reasonable efforts to transition a class member to the community within 60 days of HRA approval. (Supplemental Agreement, paragraph B.11) During the six quarters since the Supplemental Agreement’s implementation, the rate of compliance with this benchmark has ranged from 0, in Quarter 17, to a high of 3.20% in Quarter 18. In Quarter 22, it was 2.0%. (See Table 8.)

The State has acknowledged an inherent difficulty in meeting this 60-day timeframe: if a resident is shown and accepts an apartment within the prescribed 45-day period, he or she still must give a 30-day notice to the adult home, which can push the transition date beyond the 60 days. Nevertheless, the State expects housing contractors to endeavor to transition residents within the 60-day period.

Table 9 shows the median number of days from the housing intake interview to transition for the last six quarters. This calculation does not include the time from HRA approval to the housing intake interview which is expected to occur within two weeks. Nevertheless, the available data indicates that the actual time to transition is substantially longer than 60 days.

Category	QTR 17	QTR 18	QTR 19	QTR 20	QTR 21	QTR 22
Housing intake interview to transition	115.5	154	143	159	105	286

Table 9. Median Days from Housing Interview to Transition

V. Transitions—A Closer Look

Although one of the primary objectives of the original Settlement Agreement was to facilitate transitions of class members who so desired from the covered adult homes to supported housing or other appropriate community options, there has been a steady decline in the number of transitions in each of the last four years which has continued into the current year.

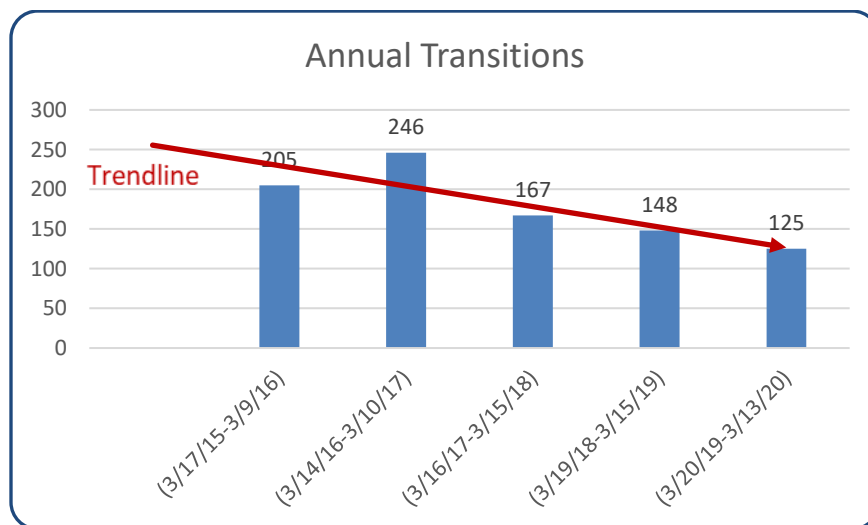


Fig. 4. Annual number of transitions

As noted above, the State has been successful in achieving significant improvements in performance and meeting many of the metric targets. In this section, we discuss the time frames for moving through the critical phases of transition for the class members who moved during this Report year and compare these data to those who moved in previous years. As illustrated by the trend lines, there has been a reduction in the median length of time for class members moving through the critical transition phases. But, as illustrated in Fig. 4., the number of transitions each year has declined.

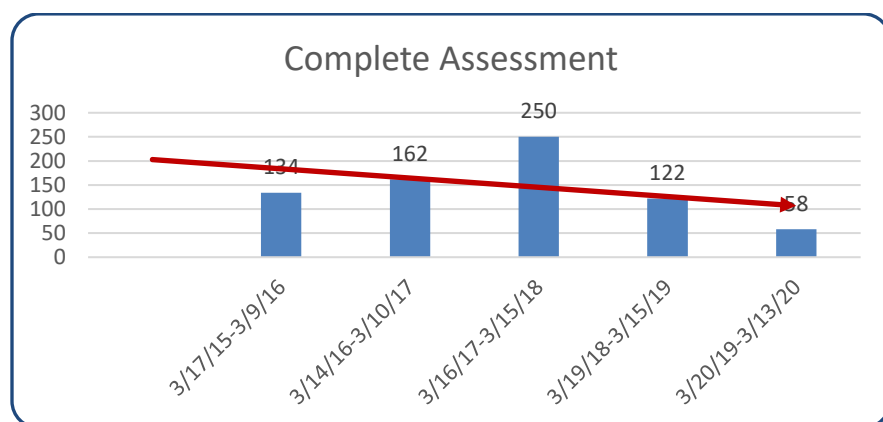


Fig. 5. Median days from in-reach to completed assessments,

Since the Supplemental Agreement consolidated responsibility for completing assessments with the housing contractor agencies, much of the delay engendered by the back-and-forth transfer of responsibility between housing contractors and assessment entities was eliminated. This resulted in a dramatic improvement in the median time to complete assessments as shown in Fig. 5. Prior to the consolidation of responsibility in March 2018, the median length of time for assessment completion had increased to 250 days; since then it has decreased to 58 days.

Similar improvements were shown in the overall time from in-reach to obtaining HRA approval for class members' transitions to the community as shown in Fig. 6.

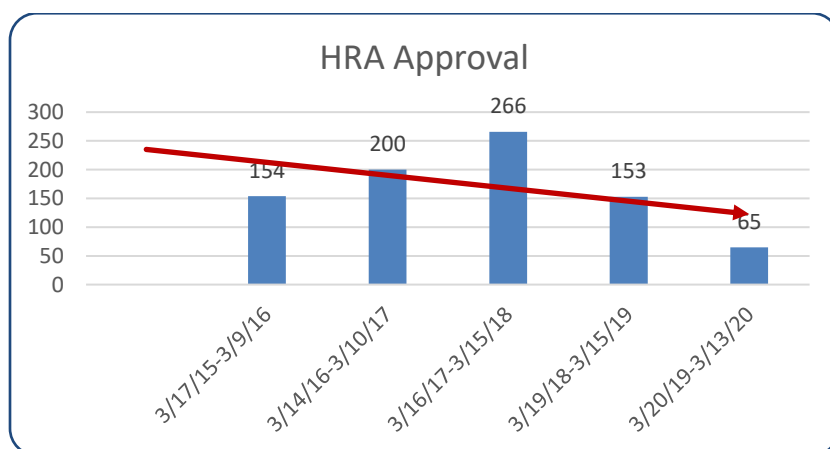


Fig. 6. Median days from in-reach to HRA approval

Following HRA approval, the next step is an interview with the housing contractor agency to determine the class members' needs and desires for community housing. Here again, there has been a substantial improvement over the past two years in the overall time from in-reach to completion of the housing interview, as shown in Fig. 7.

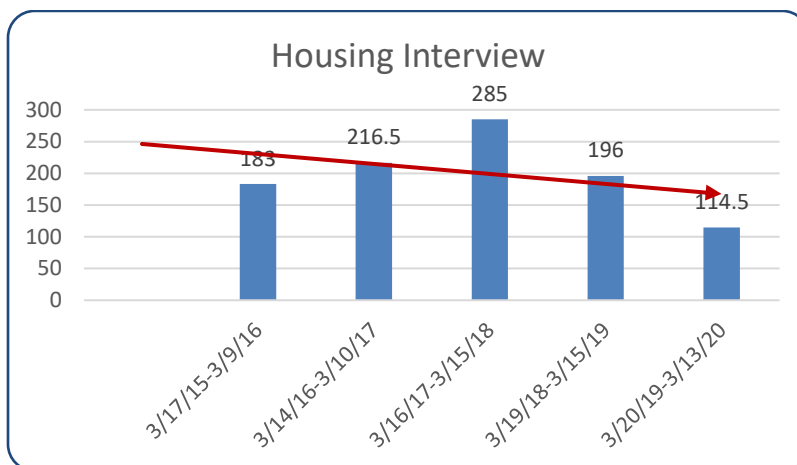


Fig. 7. Median days from in-reach to housing interview

However, despite this notable progress in many phases of the transition process, the ultimate goal of transition remains both low at fewer than 40 per month (Fig. 8) and slow. See Fig. 9 below. After dipping down from a high of 411 median days from in-reach in 2017-18 to 342 days in 2018-19, the overall median time to achieve transitions is back on the upswing.

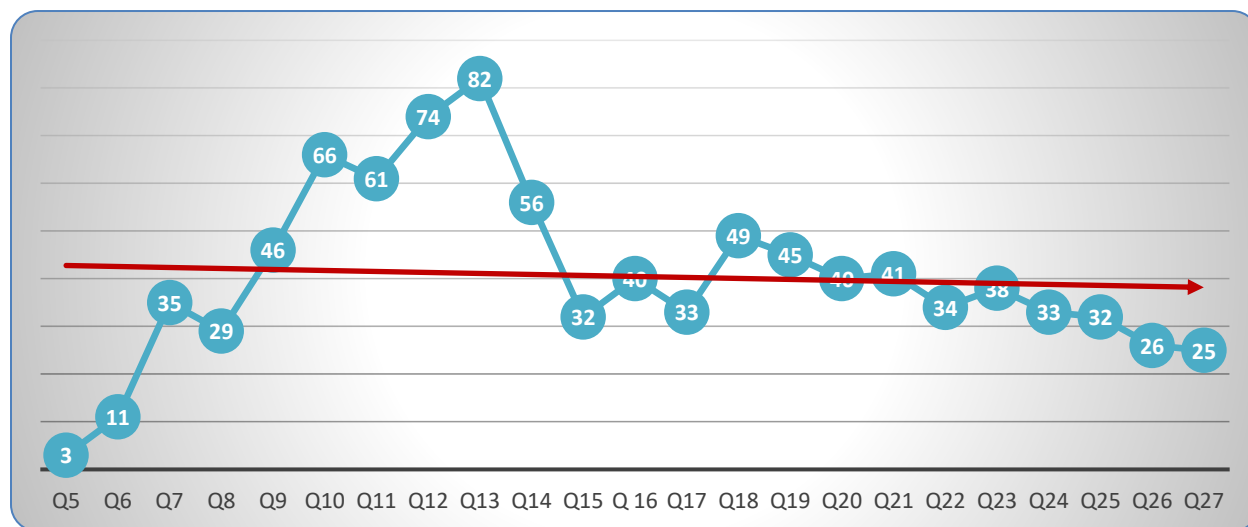


Fig. 8. Transitions of class members by Quarter as of 3/13/20

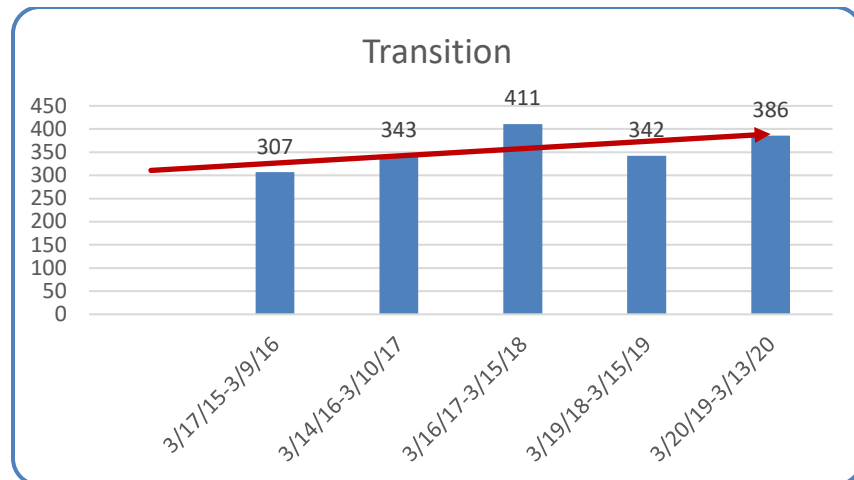


Fig. 9. Median days from in-reach to transition

Medication Administration

A significant stumbling block to timely transitions to the community is determining whether the class member would be capable of self-administering medications upon moving out of the adult home, or whether they could be so with training prior to moving. Often, this issue emerges during a pretransition call near the date of a planned move and results in delaying the class member's move and may lead to disappointment and discouragement.

While in adult homes, individuals are allowed to self-administer medications only if their physician attests in writing that they are capable of doing so.¹³ (Title 18 NYCRR Part 487.7 (f)(1)(i))

State regulations do not address how frequently residents' medication administration abilities should be assessed or by whom. Nor is there a requirement that the adult home provides training to assist residents in becoming independent in medication administration. While some residents may also be receiving ALP or MLTCP medical-related services, there are no clear directives and/or mechanisms to facilitate the assessment and training of residents in medication self-administration by these service providers while they are in the adult home.

Most class members interested in transitioning do not self-administer their medications; rather they are assisted by adult home staff, with some receiving such assistance for years. Determining their ability prior to their transition is critically important for service planning.

¹³ Residents capable of self-administration are those who are able to: (i) correctly read the label on the medication container; (ii) correctly interpret the label; (iii) correctly ingest, inject or apply the medication; (iv) correctly follow instructions as to the route, time, dosage and frequency; (v) open the container; (vi) measure or prepare medications, including mixing, shaking and filling syringes; and (vii) safely store the medication. (Title 18 NYCRR Part 487.7 (f)(2))

It is recommended that the State consider utilizing RNs affiliated with housing contractors' assessment teams to assess class members' ability to self-administer medications as part of their transition-related comprehensive assessment, provide training toward independence in this regard and, with the care manager and transition team, assist in planning medication supports upon transition if needed.

The OMH already has developed tools and protocols pertaining to medication administration assessments for use in its long term psychiatric care facilities which might offer guidance or be of use for assessing class members in adult homes who likewise have a serious mental illness.

VI. Transition Metric Reviews

To measure the ultimate success of all of the changes incorporated into the Supplemental Agreement, it incorporates a transition metric that requires reporting by the State of class members transitions every six months, and a review and report by the Independent Reviewer of "each instance" of a claimed exemption of a class member from the transition pool based on enumerated criteria. (Supplemental Agreement, ¶ C)

The transition metric starts with a pool of class members who have an active HRA approval to transition at the beginning of the six-month period. Class members who make an informed choice to remain in the adult home are subtracted from this pool. (¶ C.1.a) Further subtracted from the pool are:

1. class members "who are affected by circumstances that so materially impacted the ability to transition during the six-month period that it was impossible as a practical matter" to transition them during this timeframe despite the State's "diligent efforts" (¶ C.1.b), and
2. class members who "demonstrated a regular and persistent course of conduct that could not be ameliorated through engagement . . . and the provision of services," making it impossible as a practical matter to transition them during this timeframe, despite the State's diligent efforts (¶ C.1.c), and
3. class members who either die or are non-transitionally discharged during the six-month period (¶ C.3).

Since the Supplemental Agreement was adopted, there have been three 6-month reports submitted by the State. In each of the first two, the State was required to transition 65% of the class members in the transition pool calculated as described above. For the third six-month period which ended on August 31, 2019, the threshold of compliance increased to 85%. In each of the three periods completed thus far, the State has fallen far short of compliance according to the data it reported. In the first two periods, the actual level of performance found by the Independent

Reviewer based upon a review of samples of the claimed exceptions was lower than that claimed.¹⁴ For the third, in light of the low level of compliance claimed by the State, the Independent Reviewer determined, and the Parties concurred, that there would be no useful purpose served by a review of “each instance” of a claimed exception as it would be unlikely to make effect any change of legal consequence. The State’s performance during each of the three transition metric periods is summarized in Table 10 below.

	First TMR 3/1-8/31/18	Second TMR 9/1/18-2/28/19	Third TMR 3/1/19-8/31/19
HRA approvals	379	559	691
Minus A, B, C exceptions	-155	-258	-257
Balance	224	301	434
Compliance Threshold	65%=146	65%=196	85%=369
Deaths & discharges	-17	-30	-60
To be transitioned	129	166	309
Actually transitioned	58	73	73
Percent compliance claimed by State	45%	44%	23.6%
Independent Reviewer Finding based on sampling	Disallowed 11/31 exceptions	37.4%	No review performed

Table 10. Summary of Transition Metric Reports

¹⁴ Review of Defendants’ First Transition Metric Report, Doc. #225, Filed January 28, 2019 in 1:13-cv-04166-NGG-ST; Review of Defendants’ Second Transition Metric Report, Doc.#172, filed September 10, 2019 in 1:13-cv-04165-NGG-ST.

VII. Additional Process Changes

At the status conference on September 26, 2019, Judge Garaufis directed the Independent Reviewer to work with the Parties and make a report and recommendation to address structural impediments that have hindered progress in the implementation of the Settlement Agreement and the Supplemental Agreement. At the status conference, the Independent Reviewer identified four general obstacles to more effective implementation of these agreements, with which the Parties agreed. These were:

1. The inherent complexity of the process created to enable class members to move from adult homes to supported housing and other alternatives;
2. The number of professionals interacting with class members at various stages of the process;
3. The absence of anyone in charge of managing the entire process for the class members; and
4. Poor communication among the professionals and between the professionals and the class members.

Subsequent to the status conference, the Independent Reviewer made several specific recommendations for consideration by the Parties.

In the six months since the status conference, there have been a number of meetings and conference calls between the Parties and the Independent Reviewer team to discuss these and other process changes aimed at further simplification and streamlining of the transition process. Central to all these discussions has been the concept of creating a single cohesive team on the frontline to work with class members on their transitions and to keep them informed and engaged throughout the process. At the time of preparation of this draft Report, while there is a general consensus on many of the actions the Parties agree should be taken, there is not yet a firm plan with identified resources and implementation time frames in place. The work that the parties and the Independent Reviewer have been engaged in has been hampered and delayed by the massive disruptions in the workplace caused by the COVID-19 crisis and the “stay at home” orders issued in response.

VIII. Ongoing Monitoring

A. Visits to a sample of the class members—How are they doing?

As in previous years, the Independent Reviewer’s team conducted visits to class members who had transitioned to the community. A sample of 12 class members was selected who had transitioned before 10/1/18 and had lived in their apartments for about year, giving them time to settle in. The focus of the review was to understand the class members’ perspectives and give them a voice on their level of satisfaction, what they have achieved and what they still struggle with now that they have transitioned.

1. Class members are generally satisfied with the life they are living

All but one of the class members expressed satisfaction with their decision to leave the adult home, and with their life in supported housing. Almost all spoke of achieving their “independence.” One class member said that in the adult home “I had to live the life they wanted me to,” and now he is more independent and “has shown initiative and flexibility.” Another said that after 20 years in the adult home she “jumped on the chance to move out,” and described how she and her housemate now clean and cook for themselves, take their own medications, and split and pay their utility bill together. One class member spoke of not having to stand in line to get his medication or money and not having to share a room. Many spoke with pride of the things they had been able to achieve since they moved out and the ability to achieve their goals in independent living. They discussed the support they had received from housing case managers and care managers in reaching their goals. Some also spoke of the struggles they encountered during their time in the community.

Seven of the class members attend various day-time programs (PROS, Day Treatment or a Club House program from three to five days a week), and one also volunteers at a horse farm weekly. The remainder reported spending their time in various activities, in addition to keeping medical and other appointments, such as shopping, walking around their neighborhood, watching TV, listening to or playing their musical instruments, cooking, writing, or having friends over. One class member spoke of going into Manhattan and going to museums, to Central Park and Rockefeller Center.

- **CH, a 46-year-old man**, transitioned to a two-bedroom supported apartment in September 2018 after living at the adult home for five years. Mr. H. loves to read and write poetry and has a collection of Stephen King and J. R. Tolkien's books. He visits a neighborhood bookstore that his housemate first took him to, and also has a wide array of music and a gaming system in his room.

CH currently attends a new day program four days a week. While there, he works on the computers, watches movies, uses the weights and has breakfast and lunch. When he is not at a program, he will walk around his neighborhood, visit the bookstore, do grocery shopping and go to the laundromat. Mr. H. has an HHA four days a week who assists him with cooking, cleaning, and reminders to take his medications. He said he is compliant, but sometimes forgets to take them on time. He said he can cook simple things like eggs, pasta, and oatmeal and uses the microwave. He and his housemate sometimes eat together when one of their HHAs prepares the meal.

Mr. H. still maintains contact with his housemate from the adult home whom he sometimes visits and brings back to the apartment. CH said one of his goals is to work part-time. He said he was not motivated to look into this when he first moved but seemed more interested now.

- ***JG, a 58-year-old woman,** moved to a two-bedroom apartment in September 2018 with a housemate she knew from the adult home. Interested in ministry, Ms. G. explained that she enrolled in an online college program and is studying Theology. Her PROS program, which she attends three days a week, was helpful in this regard with their college preparatory courses. Her AH+CM helped too by facilitating the purchase of a computer. With the computer, she's also using her time for creative writing, composing plays/skits with moral themes and a book about her life. Ms. G. also reported that she's leased a car, which helps with her limited mobility and keeping her doctor's appointments. With all of the above, as well as developing a circle of friends, and her daughter who visits and sometimes stays for weekends, Ms. G. reported that's she's accomplished much of what she wanted upon transitioning and feels that she has re-invented herself.*

The one class member who spoke of regretting moving out now lives on the same block as the adult home he left, and visits daily to hang out and smoke with friends.

2. Challenges Faced by Class Members Living Independently

While reporting that they were doing reasonably well in supported housing, most class members said that they faced one challenge or another since leaving the adult home. These struggles included safety and maintenance issues in their building/apartment; meeting the challenges of managing their own money, paying bills and having enough food in the apartment; issues with their housemates that compromised the quality of their living situation; and decisions about their mental health and medical follow up that could impact their overall health and well-being.

a. Issues with Neighborhood Safety and Conditions in Their Apartments or Buildings

The apartments in which class members lived were located in proximity to grocery stores, pharmacies, banks, laundromats and other shopping, public transportation via bus or subways, in neighborhoods where most were comfortable exploring the surrounding area. Ten class members reported feeling safe and content with their neighborhood. But of these, three did not feel comfortable going out at night. One class member who did not feel safe in her neighborhood reported drug sales on the street; her apartment was also sprayed with stray bullets from an outside shooting; another resident said he would prefer a “better part of the Bronx,” but was not specific.

As in prior years, the apartments visited were appropriately furnished with living room, bedroom, and dining room furniture; kitchen utensils, flatware and appliances; and amenities such as TVs. Many of the apartments, however, lacked decorations and personalizing touches, such as photographs, wall hangings, etc.

Most class members cited having encountered minor problems in their apartments (e.g., leaky toilets, faulty stoves, etc.) that were quickly addressed when they notified the superintendent, landlord or housing contractor staff. In three cases, however, environmental problems were not remedied.

- *In the apartment of EP, there was no toilet seat or lid on the toilet. In addition, part of the couch and easy chair frames seemed to be broken or cracked. As of ~~March 2020~~March 2020, the housing contractor had installed a new toilet, although the furniture has not been repaired or replaced.*

Two other class members had more serious or long-standing maintenance issues with their apartments, raising concerns about the diligence of agencies providing services to the individuals in monitoring conditions and expediting resolutions to problems.

- ***CW, a 66-year-old woman,** loved the newly renovated apartment that she and her housemate shared. It was very nicely finished with hardwood floors and many attractive touches such as granite countertops and higher-end fixtures in the kitchen and bathroom. However, sometime in October 2019, the gas was cut to the apartment, resulting in no heat and no functioning stove. Around the same time, the apartment also lost hot water. The housing contractor's agreement with the building owner stated that he assumed responsibility for the National Grid bill and the tenants assumed responsibility for the Con Edison bill. Eventually, the housing contractor realized the building owner had reneged on paying the National Grid bill, so they established an account in their name and paid it. Gas service was restored, and the heating and stove worked again. Unfortunately, there was still no hot water. CW had stopped bathing for what she estimated to be a few weeks, and when the stove functioned again, she began heating up water to use when taking a bath.*

In early November, the apartment issues intensified when a flood in the bathroom above their apartment damaged the bathroom ceiling. Around this time the toilet also became clogged and non-functional. While the housing contractor was able to have the bathroom ceiling repaired in about one week, the toilet remained non-functional and Ms. W. and her housemate relieved themselves in plastic bags, which they then threw in the trash. The hot water was also still not working, and only after several weeks did a repairman enter and discover that the in-unit hot water heater was malfunctioning. Independent Reviewer staff learned of the ongoing issues during the 12/11/19 visit and alerted OMH and DOH. Both women were moved expeditiously to a different apartment. By 12/23/19, the maintenance issues were repaired, but because the agency had ongoing concerns with the building's owner, CW and her roommate agreed to remain in their new apartment permanently.

- ***JG, a 58-year-old woman,** said she did not feel safe in her neighborhood or in her apartment. She claims there are drug deals that go on outside and there was a shooting outside the building in June 2019, during which several bullets entered the apartment. One bullet had gone through the couch where her daughter had been sitting earlier, down the hallway and into her housemate's bedroom where it lodged in a dresser. Two other bullets went through the living room wall and into the kitchen; one went into the stove/oven, the other through the vent above the stove. She said that neither her landlord nor her housing contractor have repaired all the damage or replaced damaged items. Where bullets had gone through the living room wall, the landlord had patched the holes with putty but did not repaint the area. At the time of the visit by the Independent Reviewer's staff in*

November 2019, it had been more than five months since the shooting and the damage to the apartment.

In early September 2019, three months after the shooting incident, incident reports were filed with the State by the Health Home, the housing contractor and MLTCP in response to the shooting incident, under the requirement to report, "Unsafe or unsanitary living conditions that jeopardize the ability of a transitioned individual to remain stably housed in supported housing, endanger his or her health or safety, or result in the individual's death." The State's Incident Tracker for September 2019 indicates the State's review and investigation of the incident have been Pending.

Ms. G. said the whole shooting incident was traumatizing..." what if we had not gone to bed and my daughter was still on the couch." To this day, she tends not to stay or sit in the living room. She reported that the housing contractor offered to relocate the women following the shooting, but she went to the hospital the day after the shooting for a medical issue. She did not like some of the apartments she was subsequently shown. She is still looking but now wants to live alone.

Concerning the apartment, she also said a piece of tiling fell off the building and damaged her leased car. In December, Independent Reviewer staff spoke with the housing contractor who reported that they have talked to the landlord, and have held up rent payments, but still to no avail. The housing contractor subsequently hired a contractor, and according to Ms. G., the repair work was completed by the end of December 2019.

b. Managing Food and Money

Budgeting their monthly allowance has been a challenge for many class members after transitioning from the adult home to the community. Hand in hand with managing their finances is ensuring that they have enough money to provide them with food for the month, most often supplemented by SNAP benefits. Seven of the 12 class members in our sample reported that they were consistently able to make the benefits they received last the month so that they had enough to purchase food and meet their other needs. Two class members, RV and EM, received weekly allowances from their housing contractors which assisted them in budgeting their money, and also provided an opportunity for the housing case manager to see how they were doing.

The five individuals who indicated having difficulty in making ends meet by the end of the month cited various reasons: buying more expensive types of food, lending money to friends, smoking cigarettes, repaying debts or simply just not knowing how they spent it. None, however, complained of going hungry or not having enough to eat. AC's case is illustrative; it also raises questions about whether support agencies are providing sufficient assistance to class members either through representative payee mechanisms or more intense support and training in money management.

- **AC, a 76-year-old man**, had transitioned in September 2018 from the adult home where he had lived since 2010. He had a long history of marijuana and crack cocaine abuse, but on assessment, he said he stopped using drugs in 2008. He was very happy with his life in

the community. He spoke positively about the PACE day program he attends five days a week saying, "They are good people there." He receives breakfast and lunch at the program and receives frozen dinners from Mom's Meals. He had a supply of these meals in his freezer and generally has had enough to eat. Although Mr. C. gets about \$600 a month after rent and utilities, he said he runs out of money every month "right away." Independent Reviewer staff visited him three days after he had received his monthly check and he showed that he had four dollars remaining in his wallet. He is his own representative payee and pays his rent and utilities through Direct Express on the day his check arrives. When asked where his money goes, he said he pays the people he owes money to right away but would not explain further. According to his housing case manager, AC smokes a lot of cigarettes and in the last four months, they learned that he was using crack cocaine again. His PACE team said that he has been offered budgeting at their day program, which he refused, and they believed his drug use had diminished since they had recently addressed it with him. His housing case manager said Mr. C. was not amendable to a drug treatment program or guidance with budgeting from them. Mr. C's inability to budget or manage his finances does raise the question of why the housing contractor did not pursue becoming the representative payee and distribute a smaller amount of money to him at regular intervals throughout the month, as in two of the case examples above. The housing program Director explained that they rarely become the representative payee for their class members within their agency, and to date have only done so for four individuals in extreme cases. He added that even when the agency does become the representative payee, their Corporate Office only takes out the rent money and then cuts a check to the class member for the balance. It is then left to the housing case manager to go with the class member to cash the check, ensure the utility bills are paid via money order and give the remainder to the class member to manage on their own. The housing case manager explained that, while not ideal, AC's use of Direct Express to pay his rent and utility bills basically accomplishes the same thing.

In follow up to the visits, housing contractor agency representatives were interviewed about issues of representative payee (rep-payee) status and assisting individuals with money management difficulties, which has surfaced as a recurring problem over the years.

Their approaches vary. One housing contractor, as a matter of corporate policy, does not become the rep-payee for any class member in its supported housing program; if a person experiences severe problems in paying rent, the housing contractor will arrange via HRA for another entity to become the rep-payee. In other cases, housing contractors have become the rep-payee for only a handful of cases, while others are rep-payees for 50% or more of class members.

Overall, it appeared that housing contractors became rep-payees primarily to ensure that rents are paid on time and to avoid rent arrears. These agencies would receive the monthly SSI payment and, after withholding for rent and possibly utilities, distribute the remainder of funds to the class members. The distribution schedule also varied among the HCs. Some distributed the remaining amount on a monthly basis, leaving the members to spend as they saw fit; one

distributed the remainder on a bi-weekly basis; and a couple distributed it on a weekly basis, with one adjusting the allowance from weekly, to bi-weekly to monthly depending on how the class member managed the funds.

It should be noted that one housing contractor offered a voluntary money management program for individuals who manage their own money but who have difficulty managing funds: with the client's consent, the monthly SSI check is directly deposited into the HC's corporate account and the member is given weekly or monthly allowances.

These various approaches reflect housing contractor's recognition that not all class members can manage their funds appropriately and their need for some degree of assistance each month in making ends meet, or at least paying rent. The approaches, however, essentially control class members' access to funds. They do not directly address the specific money management and budgeting needs of the individual class member. A few years ago, OMH developed a money management training curriculum for use in its PROS programs. However, enrollment in such programs reportedly has been low and the curriculum not used much.

This is a matter that should be the focus of the entire transition team and not just the housing contractor. The Independent Reviewer recommends that class members' person-centered care plans directly address what training and support a class member needs, if any, in managing their funds, resources to assist in that regard and the persons responsible for following through on the plan.

c. Issues with Housemates

Eight class members in the sample lived with housemates. Most (five) reported they got along well with their roommates. A number did things together, like shopping, cleaning, cooking or going out on outings; others reported respecting each other's space and doing few things together except, perhaps, occasionally watching TV. They indicated that at times they had disagreements with their housemates, but these were usually minor spats and they were able to work them out.

In other cases, however, the housemate match was not satisfactory. As illustrated in two cases, long-standing problematic situations were either not known to or forthrightly addressed by housing staff, which raises questions about their diligence in attending to, exploring and remedying these types of issues which have a daily impact on a member's quality of life

- *EP, 66 years-old, is a thoughtful, positive man who was reluctant to speak badly of anything or anyone, including his housemate. Although he states he gets along with him, their dynamic involves EP accommodating the housemate's lifestyle and never complaining or questioning his actions. In this way, Mr. P. maintains peace and avoids confrontation, which is important to him. However, this also means that he looks the other way as the housemate hosts a string of guests every day (there were four who came and went during the interview with the Independent Reviewer staff), with whom the housemate*

smokes, watches EP's TV, and possibly engages in illicit drug use. Mr. P. has had food stolen from his mini-refrigerator beside his bed, and several copper pots his aide helped him purchase for healthy cooking have gone missing. He was so reluctant to complain that he had not informed housing staff about most of these problems, though he did agree to have the Independent Reviewer staff speak to them about it. While having his service providers more informed may lead to some positive supports, it seems the only longer-term solution is for EP to move on from his housemate and the building, which the housing contractor recognizes is a site of illicit drug use. EP had requested a transfer when he first moved into his apartment over a year ago and was increasingly frustrated by the lack of progress. In March 2020 his housing contractor affirmed EP would be transferred to another contractor who had identified an apartment for him to tour in his preferred neighborhood, in the borough where he was born and raised.

- **AC, a 76-year-old man,** moved with a friend from the adult home in September 2018. They got along well, shared meals, and his housemate sometimes cooked for both of them. They also watched TV together. However, after a month, his friend died of acute cocaine toxicity. AC lived alone for about seven months until a new housemate, whom he didn't know, moved in during May 2019. AC reported that they did not get along and did not do much together. He was also upset and informed his housing case manager that his housemate slept in the living room. The case manager explained that his housemate complained that his room was too small, as he had a lot of belongings that filled his room. For a while, he brought his mattress into the living room, and after AC objected, he would sleep on the living room couch, which was also a problem for AC. He also blamed his housemate for the condition of the stove, whose four burners were all dirt-encrusted, making them difficult to use. When the landlord informed the housing contractor that he would not renew the lease, the housemate moved out in November, and AC moved at the end of December, each to their own one-bedroom apartment after five months of living together.

d. Medical/Psychiatric Care

With a few exceptions, class members in our sample did not appear to have problems in their follow up with medical and mental health appointments, and compliance with medications. Two class members have refused to or not followed-up with treatment but were being monitored by support staff and appeared to be doing well at the time of Independent Reviewer staff visits.

- **RV, a 67-year-old man,** moved to a one-bedroom apartment in August 2018, after living in the adult home for two years, where he was referred from an NYC Shelter. When Mr. V. was preparing to move, he asserted that he did not want to take his medications once in his apartment, apparently having had poor experiences both with psychiatrists and psychiatric medications in the past. He has also refused all medical and mental health care. RV experiences disordered thinking and his providers said they've noticed he has delusional or paranoid thoughts, which were evident when he met with Independent Reviewer staff. Based on records, though, it appears Mr. V. experienced similar symptoms while living in the adult home even though he was taking his medications. Currently, his health and mental health status appear to be at baseline, and he has not experienced any crises since transitioning.

RV has received regular care management since he graduated from AH+ in December 2018. His care manager spoke of slowly building rapport with him, while his housing case manager has been a consistent, weekly presence in his life. Most significantly, Mr. V. agreed to see a private PCP at a neighboring hospital in January 2020, accompanied by his housing case manager.

- *AC, a 76-year-old man, said that his medical and mental health issues are addressed by his PACE program. He attends mental health programs as scheduled and is not prescribed psychotropic medications (nor was he when living in the adult home). However, he has a number of health issues, including diabetes, cardiac problems, etc. He is reluctant to follow up on recommended medical appointments for these issues. He is visited at his apartment by a PACE social worker every two weeks and a PACE nurse monthly who monitor his condition. Presently, his condition is stable, and the PACE team continues to encourage him to follow up with his medical appointments.*

e. Advice for Others

During visits with class members, Independent Reviewer staff asked if they had any advice to offer other class members still living in the adult home and thinking about living independently, or to the case/care managers who assist members transitioning. Some of their responses are highlighted below:

- *“I would tell them to try it...it’s gonna work out- it will help you to get to know more people and be more independent...it’s a chance to be on your own.” He would also recommend that “they keep themselves busy when they move out like I do.” (WE)*
- *“At the adult home, people there were moving, I saw it. I say every man for himself, everyone should try to move, try it and see if they like it.” As for the case managers/care managers, “they shouldn’t let things go in the apartment; we need help with things like the hot water... it’s not right to live like that... don’t let it [disrepair] go so far.” (CW)*
- *“Make sure you like the apartment. Don’t take the first one if you don’t like it, ask to see more.” To case managers, he would say: “Make sure you have the money on time; don’t make people wait for their money. That wait is too hard.” (EP)*
- *“I’d tell them don’t move because there are too many problems- paying bills and taking care of yourself...paying the gas and electric bills.” (JM)*
- *“Do your homework: what will you need to do on your own, what assistance will you need to do that? Tell your care managers to listen to what the clients say they need. Ask them, probe, what they need. Be consistent in meeting with them and helping them especially after they move.” (JG)*

B. The Peer Bridger Program

Implementation of the Peer Bridger program was to begin on the Supplemental Agreement Effective Date (March 12, 2018), with coverage in all impacted adult homes within one year (March 12, 2019). While neither program implementation nor full staff coverage was achieved on these dates, the Independent Reviewer has monitored implementation efforts underway since June 2018.

These monitoring activities culminated in a Report on the Status of the Peer Bridger Program in October 2019 which was shared with the Parties. (Appendix B). Key findings and recommendations addressed: 1) overall program staffing, with particular consideration for peer bridger schedules; 2) overall working conditions, with particular consideration for available space in adult homes; and 3) discouragement and interference.

1. Staffing and Turnover of Peer Bridgers

As required in the Supplemental Agreement, the peer-run agencies are required to staff each adult home with at least three Full-Time Equivalents (FTEs). The agencies have continued to try to fill vacancies since the Independent Reviewer's Report was filed in October 2019; as of March 2020, Baltic Street reported 28 of 30 (93%) front line and senior peer positions filled (though one filled position is on medical leave) and Community Access reported 28 of 36 (83%) front line and senior peer positions filled. However, they have not yet achieved or maintained full staffing, with progress undermined by extensive and continuing peer turnover. As described in our October 2019 Report, Supplemental Agreement scheduling requirements (i.e., evening and weekend coverage requirements) were identified by front line peers as contributing significantly to turnover. Following this Report, the Parties agreed to allow the peer agencies greater flexibility in scheduling evening and weekend hours as well as in making exceptions to the Supplemental Agreement requirement that more than one peer to be present in each adult home at the same time

The peer-run agencies are taking steps to address staffing vacancies such as developing "floater" peer positions and maintaining a pool of potential new hires who have already been through certain interview stages of the hiring process. Nevertheless, without commensurate attention to factors behind turnover (e.g., the work conditions discussed below) this will remain an ongoing issue within the program.

2. Peer Bridger Work Conditions

Two types of work conditions were especially salient in the first year of the program. First, within the adult homes, there was limited space, including consistently available private space, for peers to work. As of October 2019, only about five adult homes offered always or almost always available private space. Peers described innovative ways of offering privacy for class members, including utilizing outdoor spaces during temperate weather and inviting class members out for coffee to talk. On January 29, 2020, the State issued an emergency regulation requiring impacted adult homes to create a plan to provide private space for Settlement providers that will meet several specific criteria. Although these plans are in process and must then be approved and implemented

by the adult homes, the regulation suggests progress towards more adequate private, safe space for peer bridgers to work.¹⁵

Second, more specific working conditions negatively impacted many front line peers. Peers reported concerns over lack of space to store belongings, access to clean restrooms, and other health and hygiene concerns such as bedbug outbreaks. The peer-run agencies have reported continuing work to install lockers and/or secure other areas for storage within the adult homes. Office of Community Transition (OCT) has also offered support in securing such spaces, as well as directing reports of bedbugs and other safety and hygiene issues to the appropriate State officials. However, as described in our October 2019 Report, some front line peers have continued to express they do not see results from these steps, nor are they consistently kept aware of such steps. These concerns overlap with the third area salient in our Report, Discouragement and Interference.

3. Discouragement and Interference

It is notable that of all incidents of discouragement and interference reported in the last year, 34 (57 percent) were made by peers (front line and/or agency leadership), more than those made by any other Settlement stakeholder. Given peers' full-time presence in the adult homes, an efficient feedback loop among front line peers, agency leadership, and OCT emerged as critical to program implementation in 2019. OCT put processes in place - - from a Peer Bridger Tracker which records and tracks the resolution of complaints made by peers, to regular visits to the adult homes - - to monitor and respond to potential interference, discouragement, and other impediments. Still, as of October 2019, a majority of front line peers interviewed by the Independent Reviewer staff stated that when they reported concerns to OCT, they either did not hear back at all or did not hear back about specific corrective actions to be taken. OCT has reported they continue to strengthen their communication and feedback processes for peers.

4. Contacts with the Class

Despite challenges to implementation of the Peer Bridger program, staff have undertaken an ambitious scheduling of engagement and support for class members during 2019. This program was designed with almost no monitoring metrics, in line with the peer support model of time-unlimited engagement. However, one available indicator of how the program has contributed to Settlement implementation is the number of contacts peers have made with class members. As reported by each agency:

- **Baltic Street:** 6,612 unique contacts in-person with 1,612 class members (March 2019 through January 2020)

¹⁵ To be found at: https://regs.health.ny.gov/sites/default/files/pdf/emergency_regulations/Meeting%20Space%20in%20Transitional%20Adult%20Homes.pdf.

- **Community Access:** 10,224 unique contacts in-person with 1,654 class members (February through December 2019)

Both agencies made many additional attempts to contact class members but were unsuccessful either because the class members were not available or not receptive at the time. These agencies have each undertaken a variety of activities to foster relationships with class members which would enable them to engage in meaningful conversations about the choices available to them pursuant to the Settlement Agreement and Supplemental Agreement. These activities have included recreational, entertainment, skill-building, and support activities within and outside of the adult homes. The peer-run agencies report specific activities such as cooking demonstrations, budgeting workshops, shopping and restaurant trips in the community, and trips to housing contractor model apartments as contributing to transition readiness for involved class members. Both agencies also report holiday parties in late 2019 and early 2020 as especially well-attended, with 150 to 200 class members at each agency's events. In total, since each peer-run agency began operations in 2019:

- **Baltic Street:** conducted about 25 formal groups and activities, including about 15 outside of the adult homes; more spontaneously planned groups, which are to be tracked further in the future, would increase these numbers;
- **Community Access:** conducted 232 groups and activities, including 72 outside of the adult home.

As indicated in our October 2019 Report, many impacts of this program have yet to be felt. However, we recognize these numbers represent substantial efforts to engage class members. Additionally, we recognize that behind these numbers are significant planning and preparation efforts, including navigating conditions in the adult homes and Settlement environment that may limit transition progress for some class members.

In sum, the first full year of program implementation evidenced several challenges and promising responses from both the peer-run agencies and the State. As recommended in our October 2019 Report, it remains appropriate to consider how peers may best bring their skills to bear on assisting class members through the choice-making process and the transition-related tasks.

Our October 2019 Report described ongoing challenges with peer role clarity vis-à-vis other frontline providers such as AH+ care coordinators. In some adult homes, frontline peer staff already hold periodic meetings with frontline housing contractor staff and both groups of providers report such meetings are useful collaborative opportunities. Current Settlement process improvement discussions have led to an emergent consensus that further integration of the peer bridgers with other frontline teams in each adult home could increase program impact and also help clarify the roles of team members.

C. Incident Reporting and Review

Pursuant to the March 2018 Supplemental Agreement, the State established a system for the reporting and review of incidents involving class members who had transitioned and were receiving AH+CM services. Housing Contractors, MLTCPs and Health Homes providing AH+CM services were expected to report the following types of incidents to the State:

- 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;
- Death while living in supported housing;
- Circumstances that jeopardize a transitioned individual's ability to remain in supported housing by placing him or her at risk of eviction;
- 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;
- Repeated crisis episodes, including two or more Emergency Room visits or psychiatric hospitalizations within a 12-month period; or
- An individual's request to move back to an adult home or from supported housing to community housing other than supported housing.

The State was required to investigate, analyze and make reasonable attempts to correct and prevent a recurrence of the situations reported.

During the Annual Report period, at the request of the Court during a December 2018 status conference, the Independent Reviewer team conducted a review of the State's incident reporting system. It included an analysis of all 27 incidents reported between July 1 and December 31, 2018; the State had completed its review of the 27 incidents by April 2019. A copy of the Independent Reviewer's Report was filed with the Court on July 7, 2019.¹⁶

The Report identified a number of areas in need of improvement in the existing system. These included: the timeliness of reporting by providers who sometimes waited weeks to report incidents; the timeliness of the State's reviews which sometimes took up to six months to complete; the thoroughness of State reviews which rarely entailed interviews with support providers or class members; and its failure to secure and review all records which may have been germane to a case. The State agreed to address these findings.

¹⁶ Review of Defendants' Implementation of the Incident Reporting and Review System as Required by the Supplement to the Second Amended Stipulation and Order of Settlement, Doc. # 167 filed in 1:13-cv-04165-NGG-ST, July 9, 2019.

Chief among the Independent Reviewer’s findings, though, was the fact that most class members who transitioned to the community were not afforded the protections offered through the incident reporting and review system. The only events or conditions that were required to be reported to, reviewed and remediated by the State were those affecting individuals enrolled in AH+CM, which is a time-limited program available through Health Homes. (Members are enrolled in AH+CM for the first six months following transition after which their case is reviewed to determine whether they need such an intense level of care management or should be “stepped down” to regular care management through the Health Home.) As of December 2018, only 179 of the 774 class members who had transitioned to the community (or less than one quarter) were receiving AH+CM services.

The Independent Reviewer recommended that incident reporting and review requirements should be extended to all class members who’ve transitioned. The State concurred with this recommendation. In August 2019, the State reported that the reporting of incidents will no longer be tied to the receipt of AH+CM service. Housing Contractors, MLTCPs and other service providers (e.g., Pathways, ACT Teams, etc.) will be required to report incidents involving all class members transitioned to supported housing and not just those enrolled in AH+CM. Health Homes providing AH+CM services and Health Home plus (HH+) care management services, another enriched care management program in which class members will be enrolled, would be required to report incidents. However, when class members step down from these enriched levels of care management to regular care management, the Health Home would not be required to report incidents involving them. The State posited that class members constitute an extremely small percentage of Health Homes’ general population and it would be difficult to train and hold all regular care managers to the incident reporting requirements concerning individuals they may rarely, if ever, serve. The State noted, though, that incidents involving class members receiving regular care management would still be reported by the housing contractors and MLTCPs and, when reported, the State will contact the regular care management agency for records and input as part of the State’s review.

D. Discouragement and Interference

The Settlement Agreement (§ E. 4) provides: “The State shall advise NYC Impacted Adult Homes that they may not interfere with the reasonable access of housing contractors to the NYC Impacted Adult Homes and may not discourage NYC adult home residents from meeting with housing contractors.”

The Supplemental Agreement added specific guidelines for tracking and reporting discouragement and interference, including the State’s responsibility for maintaining a database of all reports of interference or discouragement, the investigation of the reports, and the actions taken in response to the reports. It also requires the State to analyze the database to identify practices and patterns of interference or discouragement and determine remedies to problems identified through the process.

Independent Reviewer staff reviewed the data provided by the NYS DOH, which is required to provide a monthly reporting of any incidents of discouragement or interference as described under the Supplemental Agreement.

1. Summary of the Data

During the Annual Report period (data through February 2020), there were 63 reports of discouragement and/or interference. More than half (34 or 54 percent) of the complaints were reported by the Peer Bridger programs. The remaining were reported by other Settlement providers (9 or 14 percent), the State (5 or 8 percent), legal advocates (4 or 6 percent), or a Guardian (1 or 2 percent.) The reporter could not be determined from the information provided for the remaining ten reports (16 percent).

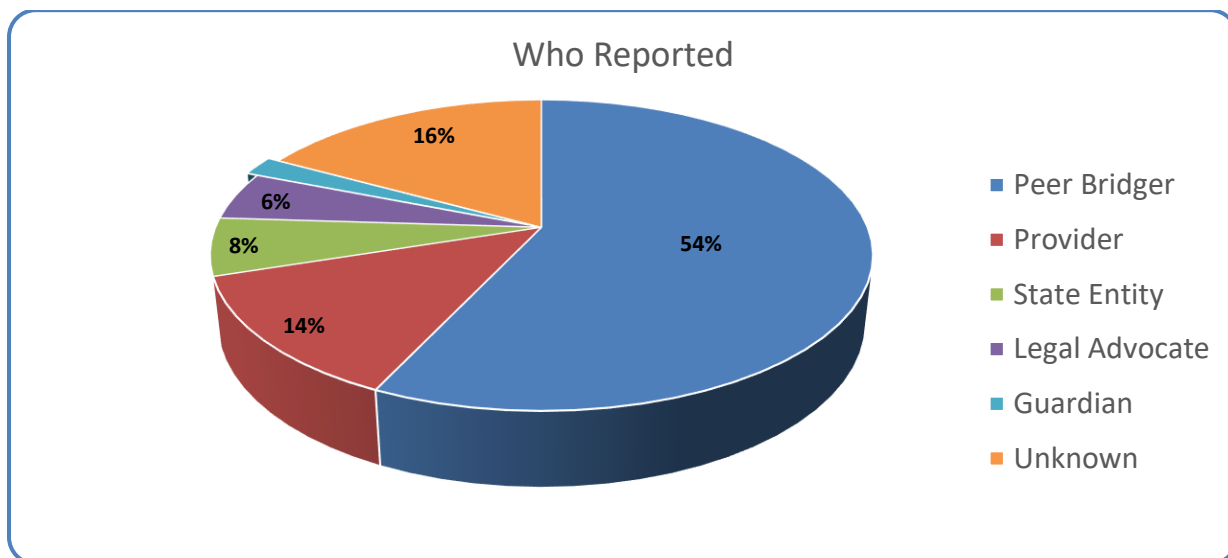


Fig. 10. Reports of Interference/Discouragement

There were reports involving 20 of the 22 impacted adult homes ranging from one to 12 reports in these homes. (Table 11 below) The majority of the reports (55 of 63) were filed as a formal complaint with the NYS DOH. Forty-seven (85 percent) were reported by the OCT to the Division of Adult Care Facilities (ACF) Hotline, in four cases the OCT requested another entity contact the ACF complaint hotline, and in four cases the peer bridgers, legal advocate, or settlement provider made a direct complaint to the ACF complaint hotline.

Of the 55 formal complaints, 17 (30 percent) were substantiated, 27 (47 percent) were unsubstantiated, and 13 (23 percent) were still pending. There were two reports that yielded two different findings- one substantiated and one unsubstantiated.¹⁷

¹⁷ The percentages are based on 57 to include the two complaints that had two different findings within each of those complaint.

Eight (8) of the complaints were not filed or investigated as formal complaints. These complaints were handled through telephone calls to the adult home administrator or case manager, or other entities to resolve the issue. Only one was not marked as being resolved.

Adult Home	Number	Percent
Park Inn	12	19%
Surfside	9	14%
Central Assisted Living	7	11%
Garden of Eden	6	9%
Brooklyn Terrace	5	7%
Oceanview	3	4%
New Haven Manor	3	4%
New Gloria's Manor	3	4%
Kings ACC	2	3%
Parkview	2	3%
Wavecrest	2	3%
Queens ACC	1	2%
Mermaid Manor	1	2%
The "W" at Riverdale	1	2%
Elm York	1	2%
Harbor Terrace	1	2%
Brooklyn ACC	1	2%
Mariner's	1	2%
Seaview Manor	1	2%
Lakeside Manor	1	2%
Total	63	100%

Table 11. Number of Reports of Discouragement and Interference by Adult Home

2. Types of Complaints

While there were 63 incidents reported, some reports (26) included more than one complaint that fell into different categories for a total of 89 types of incidents. These categories are drawn from DOH regulations at 18 NYCRR 485.14, 18 NYCRR 487.5(a) or NYCRR 487.11(1)(12). The following are the types of incidents that were reported by the incident categories used by the DOH:

- In any other way, that Settlement Implementation Providers are aware of, limit or violate adult home residents' rights **(32 or 36 percent)**;
- Employ dilatory tactics that frustrate efficient implementation of the Settlement **(23 or 26 percent)**;
- Attempt to influence NYC adult home residents' decisions where to live or what services to receive **(13 or 15 percent)**;

- Interfere with NYC adult home residents' private conversation with Settlement Implementation providers **(11 or 12 percent)**;
- Impede or prevent use of adult home common areas for group or individual meetings **(4 or 4 percent)**;
- Impede or obstruct their access to NYC adult home residents **(3 or 3 percent)**;
- Fail to allow visits with NYC adult home residents **(2 or 2 percent); and**
- Prohibit meeting with NYC adult home Residents in their rooms **(1 or 1 percent)**

While the tracking system is useful to get an overall picture of what types of complaints are being reported, it was less helpful in determining whether issues were resolved and what, if any corrective action was taken. Additionally, as of December 2019, 21 of the 60 reports (35 percent) were still pending results of the investigations, even though some were reported as far back as May 2019.¹⁸ Some of these reports included issues with residents' rights like withholding of PNA funds, the adult home opening residents' mail and lack of privacy while meeting with peer bridgers or other advocates. As of March 2020, 13 of the 63 total complaints remained pending with 10 of them pending between 60 days to nine months. Similarly, it is unclear whether the initial reporter was made aware of the finding of the reports or the progress of any investigation.

E. Housing Procurement

As a follow up to the Transition Metric Report (Doc. #225, filed January 28, 2019), the Independent Reviewer team conducted a review of how the eight housing contractors procure supported apartments for class members under the Adult Home Settlement Agreement.

The Transition Metrics Report showed that many exclusions were claimed because class members' needs and preference could not be accommodated in a timely manner (only looking for a one-bedroom apartment, in a specific neighborhood, etc.)

Independent Reviewer staff met with housing contractor staff who are responsible for procuring apartments to learn about their process, how they accommodate class members' needs and preferences and any difficulties/challenges they may have encountered. We also sought to learn what effect the 15 percent rate increase had.

1. Procurement Process

All the housing contractors had at least one staff person who is responsible for obtaining apartments for individuals associated with their agency. All seemed to have a sound process that included vetting landlords and apartments to ensure that any required maintenance was completed prior to leasing the apartment. However, as has been reported in this and previous annual reports,

¹⁸ Ten (10) of these reports have been more recent, pending since November 2019.

the Independent Reviewer has encountered several instances where necessary repairs were not made prior to class members taking occupancy of apartments and other instances where landlords failed to address maintenance and repairs in a timely manner. Procurement staff said that they consider the safety of the class members as well as their staff when looking in certain neighborhoods. Most discussed that they work closely with the program staff to identify the specific needs of class members. The procurement staff uses a variety of methods to find apartments. Most relied on landlords or management agencies with whom they have developed relationships and on brokers. Some also found apartments through online searches or canvassing neighborhoods looking for signs for available apartments. Many indicated that landlords would call them when they have available apartments to see if it meets their needs. All the housing contractors indicated that they use the Department of Housing and Urban Development (HUD) fair market rental rates when looking for apartments.

2. Class Members Needs and Preferences

The housing contractor procurement staff indicated there are certain basic preferences they are aware of: single-occupancy units, first floor or elevator buildings for people with mobility issues and apartments in areas where community resources are within walking distance, such as grocery stores, laundromats, and public transportation. But they also try to accommodate specific needs identified to meet the needs/preferences of class members. These are communicated by program staff, assessors and/or in-reach staff when they become aware and are communicated to the staff responsible for procuring apartments who know what is available. When someone is looking for an apartment, they try to match with available stock or will search for an apartment to meet a specific need and/or preference.

3. Challenges/Barriers

The most common challenge identified is finding affordable apartments that meet all the needs and preferences of class members. Most cited that finding apartments that meet the needs of an older population and people with mobility issues is the most challenging. The other common barrier was finding affordable apartments in specific neighborhoods, especially in Brooklyn where there is a lot of gentrification going on and in certain Queens neighborhoods. Overall, there were similar issues cited by all housing contractors while others seem to be borough specific.

4. Affordability

All but one housing contractor (Pibly) indicated that it is nearly impossible to find affordable apartments in neighborhoods that some class members find desirable and request, especially one-bedroom apartments. All the housing contractors stated that they use the HUD fair market rate as a guideline. These rates were similar across all boroughs. Most stated that the funding for this program is too low to cover overhead costs, staffing, services, and rent. Some of the housing contractors also mentioned that they need to pay brokers fees, typically equivalent to one month's rent.

Shortly before this review, OMH had announced a 15 percent increase to the OMH Supported Housing rental stipend for new apartments funded under Phase II of the housing contracts to assist housing contractors in meeting the challenges of the New York City housing market. It is likely that information about this recent change had not yet made its way to the staff engaged in apartment searches. More recently, in the course of discussions with the Plaintiffs and Independent Reviewer, the State has also approved an accessibility stipend of \$500/month to facilitate finding apartments for class members with mobility impairments.

5. Mapping Project

At the recommendation of the Independent Reviewer, OMH developed an interactive map to display the location of apartments that had been rented for class members in this adult home initiative. The map presents a visual aid using variables that could assist Settlement providers in finding supported apartments that meet the needs and preferences of class members. The interactive map shows the current housing stock, many of which are occupied by class members who have already transitioned. However, it also shows the neighborhoods, rental amounts, accessibility, vacancies/beds that are unoccupied, and the number of bedrooms.

While the map shows where supported apartments have already been secured for class members, the intent is for it to assist class members and HC case managers by visually showing what types of neighborhoods apartments have been secured given the housing rental rates, etc., and show where vacancies are located. It can also assist housing contractors in considering what is available in other boroughs if a class member does not have a preference or prefers another borough than they may have indicated at in-reach, or even what inventory is available in the same borough but under a different housing contractor to expand their options and hopefully decrease the time looking for a preferred apartment. For example, OMH found that many people from Staten Island say they want to remain on Staten Island. The two housing providers there have different apartment inventory- one with more inventory than class members currently in the housing search process, and the other with many more class members in the housing search than they have apartments. OMH reported they are reviewing the lists with the providers during their weekly calls to facilitate class member access to these vacancies across the two Staten Island providers.

In developing the mapping project, OMH recognized some limitations to the information. While the raw information suggested many available vacancies sufficient to meet the needs of a large portion of the class members who were in the search process, in reality, many of these vacancies were not truly available. Some had been committed to class members whose moves were delayed by unexpected events such as a hospitalization, a newly ordered assessment or the need for home modifications.

In most of these cases, the housing provider holds the apartment, continues to pay rent on it until the issues are resolved, making it unavailable to offer to other class members. The other

common challenge learned about these vacant slots was the management of partially occupied apartments. While some class members indicate they are fine with sharing an apartment, they are ready to move before anyone has identified a good housemate match for them (using the roommate profile worksheet). Rather than making class members wait on another class member being ready to move as well as a good housemate match, many class members move into two-bedroom apartments alone initially. Providers report that class members quickly get used to having a larger apartment to themselves and are often not eager to welcome prospective housemates. Class members tour and frequently decline an apartment with an awareness that the other class member was not eager to share the apartment. OMH reported that they have been encouraging providers to strive to move matched housemates at the same time as much as possible, while also not requiring people to wait in the adult homes longer, but that this remains a challenge.

The full extent of how useful the mapping will be in assisting class members to transition in a more timely manner remains to be seen. There have been some limitations that have prevented this from being fully implemented. While OMH has presented this to Settlement providers, there have been some technical issues with the housing contractors not being able to access the map. There were also delays in keeping the information updated, particularly the actual vacancies.

OMH reported it has been working to rectify these issues. OMH reported they plan to have the updated version of the map available by mid-February 2020 and will be updating the data on a monthly basis. The data will also include gender information for vacancies in multiple bedroom apartments and show where leases are not renewed as well as new apartments that are secured and at what rental amounts. They also reported they will be doing some trend analysis, to measure the impact over time of increases in the rental stipends.

6. Vacancies

As of January 24, 2020, there are reportedly 205 vacancies¹⁹ across all the housing contractors. The majority of the vacancies are in two-bedroom apartments (70%) but there are also vacancies in three-bedroom apartments (16%) and studio or one-bedroom apartments (14%). There are currently 405 class members in the housing search process. If these class members could be matched with the 205 vacancies, more than half (51%) could be placed.

¹⁹ These are true vacancies and not vacant spots (could be a spot in a partially occupied apartment as well) that a housing provider has already identified for a class member who will be moving into that apartment.

Housing Contractor	1 Bedroom Vacancies	Studio Vacancies	2 Bedroom Vacancies	3 Bedroom Vacancies	Total Vacancies
Bronx					
Pibly Bronx	9	1	14	0	24
Bronx Totals	9	1	14	0	24
Brooklyn					
ICL	0	0	12	2	14
Pibly Brooklyn	4	0	34	0	38
SJMC Brooklyn	6	0	25	1	32
Brooklyn Totals	10	0	71	3	84
Queens					
ComuniLife	3	1	12	3	19
Fed of Org	0	0	8	15	23
TSI	3	0	16	11	30
Queens Total	6	1	36	29	72
Staten Island					
SIBN	0	0	10	0	10
SJMC Staten Island	0	3	12	0	15
Staten Island Totals	0	3	22	0	25
All Borough Totals					
All Borough Totals	25 (12%)	5 (2%)	143 (70%)	32 (16%)	205 (100%)

Table 12

IX. Conclusion

As we look back on the past six years, it is a source of some satisfaction that almost 1000 class members have taken advantage of the choice offered to them by the Settlement Agreement and moved to supported housing or other alternatives in the community, although there is much that remains to be done. The Independent Reviewer team has consistently found in our annual reviews that, despite some exceptions, the class members we visited are generally happy with the choice they made to leave the adult home. This does not mean that their lives in the community are trouble-free. Class members who rely on public benefits like SSI and Medicaid have limited amounts of money available to them, especially in an expensive urban environment like New York City. Of necessity that constrains their choices, as it does for all people of limited means.

Dealing with their own and their housemates' serious mental illness, sometimes compounded by substance abuse, also creates challenges for them and for the providers who support them. Nonetheless, only a small minority of such experiences have resulted in a move from supported housing either to a higher level of care or a return to the adult home.

Despite the overall success of this program in resettling class members in supported housing or other community alternatives to the adult home, it is of concern that some of the same structural and process problems that impeded fuller progress in past years still persist. This report describes the improvement in the time for class members to move through the various stages of a complex process, but from the class member's perspective, the overall time from in-reach to a move continues to be inordinately long (Fig. 9). The numbers of class members being transitioned to the community has continued to decline in each of the past four years (Fig. 4).

The parties and the Independent Reviewer are once again examining the whole process with a view to streamlining and making more choices available to class members. The State has already committed to increasing the supported housing rental stipends by 15% and, in light of the significant subset of class members with mobility impairments, has agreed to a \$500 a month accessibility supplement to help in the search for suitable housing for these class members.

One of the large challenges that must be tackled is engaging the large cohort of class members --more than half the class-- who have either shown no interest in transitioning to community services, or having once expressed interest, have dropped out. It is likely that many of these class members have experienced discouragement from families, service providers and/or the complex and time-consuming transition process itself. The State and the settlement providers need to develop a plan to enable these class members to fully consider their options and make an informed choice of whether to remain in the adult home or transition to the community with appropriate and dependable support services.

Discussions on reengineering the process remain a work in progress as this report is being drafted and will be updated as developments permit. The Independent Reviewer offers recommendations to guide that effort. The Plaintiffs and Defendants have had an opportunity to review a draft of this report and have generally concurred with the recommendations which follow.

X. Recommendations

1. A substantial number of class members have had their planned transitions delayed. These delays are often due to incomplete care planning or the failure to implement elements of the care plan in a timely way. Examples include the failure to secure necessary IDs; arranging financial entitlements; arranging for an assessment of the class member's ability to manage self-administration of medications and providing training if needed; arranging for aide services and MLTC enrollment; etc. In the discussion among the parties and the

Independent Reviewer, there is an emerging consensus that the staff of the various transition-related agencies (housing contractors, peer agencies, health home case management agencies and MLTCs) need to be organized into a real planning and service delivery team at the adult home level, with clear leadership and roles and responsibilities of each actor for performing various tasks that are necessary to implement a transition within a reasonable period of time following HRA approval. Essential to the effective functioning of such teams is maintaining regular communication with the class member about the status of transition-related activities.

2. At each adult home, there should be an adult home-specific plan which focuses on actions to be taken a) for those class members who have said Yes, but have not yet transitioned; b) class members who have been ambivalent; and c) those who have consistently said No to the opportunity to transition. The State and the settlement providers need to develop a strategy for each impacted adult home to address the differing needs of these groups and the relative priority attention to be given in the near, intermediate and long-term.

For example, with the first group, the plan might specify who will assist in securing needing IDs, making benefit-related applications (SNAP, Representative Payee status, etc.), change in address notifications, and other necessary steps in the transition process. etc. as plans for transition progress. For the second group, the plan might specify what steps will be undertaken, and by whom on the team, to educate the member about the transition process, supported housing and the opportunities and supports that are available upon transition to assist them. In this regard, the role of staff of housing contractors, peer agencies and health homes providing regular care management should be specified. (e.g., taking tours of neighborhoods, exposing them to community activities of interest, using public transportation, etc.) For the consistent No group, in the near term perhaps all that needs to be done is to ascertain their current preference and advising them what to do if they change their minds.

3. As reflected in the cases of several class members visited, environmental problems in their supported apartments persisted for long periods of time. Housing contractors must redouble their efforts to assessing environmental conditions before occupancy and on an ongoing basis during their visits and promptly facilitating their remediation when observed or reported. OMH which contracts with HCs should monitor their performance in this regard.
4. Likewise, some class members visited experienced housemate difficulties which impacted the quality of their daily life. Sometimes these were suffered silently, at other times complaints were voiced to Housing Contractors but not forthrightly addressed. Housing contractors, as well as care coordinators who have more frequent contact with class members, should be vigilant in exploring and monitoring how housemate relationships are

far and, where needed, offer appropriate assistance to resolve difficulties in a timely manner.

5. Delays in determining a class member's ability to self-administer medication, and the provision of training if it is needed occur frequently. Relying upon adult home staff to perform these functions has not proved successful. We recommend that the State consider utilizing RNs affiliated with housing contractors assessment teams to assess class members' ability to self-administer medications as part of their transition-related comprehensive assessment, provide training toward independence in this regard and, with the care manager and transition team, assist in planning medication supports upon transition if needed.
6. As we have noted in previous annual reports, class members who transitioned to the community continue to experience difficulty in budgeting and managing their money. Settlement providers do not have a consistent approach to providing the assistance that class members may need. While some aid to ensure that rent and utilities are paid on time, a significant portion of class members still run out of money before the month's end. A few years ago, OMH developed a money management training curriculum for use in its PROS programs. However, enrollment in such programs reportedly has been low and the curriculum not used much. This is a matter that should be the focus of the entire transition team, and not just the housing contractor. The Independent Reviewer recommends that class members' person-centered care plans directly address what training and support a class member needs, if any, in managing their funds, resources to assist in that regard and the persons responsible for following through on the plan.
7. We recommended in the past that persons reporting incidents should be informed of the outcome of the investigation. The same practice should be followed in informing complainants, including peer bridgers, who make reports of discouragement or interference about the resolution of the complaint. As noted in this report, some complaints have remained open for an inordinate amount of time. The State should establish a deadline of no more than 60 days for completion of an investigation and resolution of the complaint, except in exceptional circumstances.

Appendix A. Table of Acronyms and Abbreviations

Acronym/Abbreviation	Meaning
ACT	Assertive Community Treatment
ACF	Adult Care Facilities
ADL	Activity of Daily Living
AH	Adult Home
AH+ CM	Adult Home Plus Care Manager
AHRAR	Adult Home Resident Assessment Report
ALP	Assisted Living Program
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
FTE	Full-Time Equivalent
HC	Housing Contractor
HCS	Health Commerce System
HH	Health Home
HHA	Home Health Aide
HRA	Human Resources Administration
HUD	U.S. Department of Housing and Urban Development
IAH	Impacted Adult Home
ICL	Institute for Community Living
JBFCFS	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
OCT	Office of Community Transition

OMH	New York State Office of Mental Health
OPWDD	New York State Office for Persons with Developmental Disabilities
PACE	Program of All-Inclusive Care for the Elderly
PCP	Person-Centered Plan
PNA	Personal Needs Allowance
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
SNAP	Supplement Nutrition Assistance Program
SSA	Social Security Administration
SSI	Supplemental Security Income
TSI	Transitional Services for New York, Inc.

Appendix B Peer Bridger Report

A Report on the Status of the Peer Bridger Program

By

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Independent Reviewer²⁰

²⁰ The members of the Independent Reviewer review team –Mindy Becker, Steve Hirschhorn, Tom Harmon and Dr. Kathleen O’Hara contributed substantially to the research and preparation of this report.

I. Executive Summary




The Peer Bridger program has been a challenging one to implement across the 22 adult homes covered by the Settlement Agreement and Supplemental Agreement. Perhaps the most consistent characteristic of this program since implementation began in March 2018 is the extent of changes large and small that have affected the consistency and stability of staff assigned to adult homes and on whom the program depends to establish meaningful relationships with class members. Not only has the program been affected by difficulty in filling the authorized positions and significant staff turnover among the staff hired, but also by the consequent movement and re-assignment of staff to cover vacancies, absences and other unexpected events. As described in this report, working conditions in many of the homes are difficult, adequate working space and privacy are highly variable, and role confusion continues to be a problem.

As many of these issues emerge with different levels of seriousness at each of the adult homes covered, the Independent Reviewer team has attempted to summarize them in a visual snapshot, with a more detailed description of the issues in the body of the report.

In the graphic below, we report on five key issues affecting the implementation of the Peer Bridger program, using the following criteria for classifying our conclusions.

Criteria Key	
Staffing	As indicated by 08/2019 staffing and scheduling documents, the number of front line and senior peers assigned to the home, with consideration for variations observed during unannounced visits and/or indicated during 09-10/2019 interviews.
Scheduling	As indicated by 08/2019 staffing and scheduling documents, the days and hours worked by each peer assigned to the home, with consideration for variations observed during unannounced visits and/or indicated during 09-10/2019 interviews.
Space	Location, size, cleanliness, safety, and privacy of space provided for peer use. Consideration for restrictions on space (e.g., can only be used certain times of day).
Working Conditions	Space to store personal belongings, meals; restroom access, cleanliness; bedbugs and other safety and sanitation concerns; telephone and Internet connectivity.
Discourage, Interfere	As indicated by the 09/2019 OCT peer bridger tracker and discouragement and interference tracker, the number and severity of incidents in the home, State-described actions to address incidents, and consideration for a "feedback loop" such that front line and senior peers were aware of how incidents were addressed.

The ratings in the graphic below depict this classification,

Ratings Key	
	Little to no problem
	Some problems
	Significant problems















































































































	Staffing	Scheduling	Space	Working conditions	Discourage, Interfere
BACC					
Belle Harbor					
Brooklyn Terrace					
Central Assisted					
Elm York					
Garden of Eden					
Harbor Terrace					
KACC					
Lakeside					
Mariners					
Mermaid					
New Gloria's					
New Haven					
Oceanview					
Park Inn					
Parkview					
QACC					
Riverdale/W					
Sanford					
Seaview					
Surfside					
Wavecrest					

Figure 1. Independent Reviewer Team Findings By Adult Home

1. Introduction

In Progress Memo #11 (May 12, 2019) the Independent Reviewer provided initial observations on the implementation of the Peer Bridger Program and recommended attention to early concerns. In September and October 2019, the Independent Reviewer team engaged in a more extensive round of interviews and adult home observations to gain a greater understanding of program implementation progress, challenges, and potential recommendations for improvement. More specifically the team:

1. Interviewed all actively working senior peers (n=6) and three regional directors with knowledge of the adult homes currently without senior peers.
2. Interviewed as many front line peers as readily available at each adult home (n=33), including:
 1. 29 front line peers interviewed in person; and
 2. Four front line peers interviewed over the phone.
3. Made unannounced visits (n=23) to 19 adult homes (including second visits to four adult homes where peers were not readily available during the first visit).
4. Conducted a staffing records and payroll review for each peer-run agency.

5. Staffing Issues

1. Maintaining Sufficient & Adequate Peer Presence in Adult Homes

The Supplemental Agreement requires that each adult home have at least three full time peer bridgers. (Section F.2.c.) This requirement has been difficult to achieve and sustain.

The Peer Bridger program was to be implemented within one year of the Supplemental Agreement's 3/9/18 effective date. However, as illustrated in Table 1, by late March 2019 only five of the 22 adult homes had three Full Time Equivalent (FTE) peers or senior peers assigned to them;²¹ 13 homes had two FTE peers assigned; three had 1.5 peers assigned; and one, Central Assisted Living, where program roll-out was delayed, had none.

By late August 2019, the level of peer coverage had improved, but six adult homes (27%) had two or fewer peers assigned to them.

While the peer agencies had difficulty “staffing up” to meet the threshold of peer coverage from March to August 2019 period, it also appears that staff retention or turnover was a factor. The Independent Reviewer did not examine the frequency with which each peer position turned over during this period. However, it is possible to gain insight by comparing the individual peers employed by the two peer agencies in March and August 2019:

²¹ Senior peers are assigned as an FTE to one adult home but also carry certain administrative tasks (such as scheduling events, etc.) for two or more homes.

Community Access

	FTE Peers & Senior Peers Employed & Assigned	
Adult Home	3/26/2019	8/30/2019
Belle Harbor	2	3
Central Assisted	0	2
Elm York	3	2
New Gloria	2	3
New Haven	2	2
Park Inn	2	3
Parkview	2	3
Riverdale	3	3
Sanford	2	2
Seaview	2	3
Surfside	2	3
Wavecrest	2	3
Total	24	32

Baltic Street

	FTE Peers & Senior Peers Employed & Assigned	
Adult Home	3/13/2019	8/23/2019
Brooklyn ACC	2	3
Brooklyn Terrace	2	2
Garden of Eden	1.5	3
Harbor Terrace	2	3
Kings ACC	1.5	1.5
Lakeside	2	3
Mariners	3	3
Mermaid	1.5	3
Ocean View	3	3
Queens ACC	3	3
Total	21.5	27.5

Table 1. Distribution of Peers by Peer Agency and Adult Home March and August 2019²²

1. Of the 22 peers and senior peers employed by Baltic Street in full- or part-time positions in March, only 15 remained employed by August; nearly a third (32%) had left.
2. Of the 24 peers and senior peers employed by Community Access in March 20 were still employed by August; approximately 17% had left.

²² Staffing figures for 3/26 and 3/13/19 (Community Access and Baltic Street, respectively) are based on organizational charts provided to the Independent Reviewer on those dates. However, Independent Reviewer interviews and observation from March and April 2019 suggest these figures were in flux (i.e., there were some resignations, new hires, and reassignments). While these figures may have accurately represented the number of FTEs on the payroll, they were less accurate about the assignments to adult homes. Staffing figures for 8/30 and 8/23/19 (Community Access and Baltic Street, respectively) are based on staffing schedules and timesheets provided by the agencies for the payroll periods ending on those dates.

3. Staffing is constantly in flux and Independent Reviewer team visits in September and October 2019 suggested staffing reported as of late August had already changed. The peer agencies continue to struggle with maintaining adequate peer coverage for their adult homes. In interviews during the week of October 7, 2019, Baltic Street administrative staff reported that of the 30 FTE peers required to cover its 10 adult homes, there were six FTE vacancies (20%). Community Access administrative staff reported that of the 36 FTE peers required to cover its 12 adult homes, there were eight vacancies (22%).

This was evident during our site visits, for example:

1. During a 9/23/19 visit to Harbor Terrace, the sole peer present reported having worked alone since another had resigned on 9/9/19.
2. At Lakeside Manor on 9/24/19 one peer was working alone. The second peer was listed as out on vacation and a third, newly assigned peer had called in sick due to childcare.
3. In August, Parkview and Riverdale were each listed as having three FTE peers. But due to staff shortages, by 9/27/19 they were sharing staff between homes on a rotating basis, making it difficult to establish and maintain relationships.

Staff turnover and vacancies -- coupled with absences due to scheduled vacations, absences, and extended medical and other leaves -- make it difficult to maintain a consistent presence in adult homes and to build and sustain relationships with class members.

Some peers interviewed described being assigned to and working in one adult home for a period of time only to be transferred to a different home due to staff turnover. One peer who experienced such a transfer said “I lost everything I had built up...I have to start all over” to establish rapport with new class members. Other peers who remain in their home when other colleagues depart spoke of having to “pick up” the caseloads and forge new relationships with class members in the absence of their colleagues.

Compounding the problem of vacancies and building/sustaining relationships with class members is the Supplemental Agreement’s requirement that no peer should be deployed to an adult home without a second peer or staff from another settlement Agreement provider. (Section F.2.c.) However, based on August staffing schedules and timesheets, Baltic Street seems to have assigned peers to work alone at a few homes on evenings (e.g., KACC, Mermaid Manor, and Garden of Eden). Community Access has taken a different approach, prohibiting peers from working alone in an adult home for more than one hour.

This results in spotty or inconsistent peer presence in the adult homes. For example:

1. Due to vacancies and extended leaves, there is only one peer available to work at Elm York and one peer to work at Sanford. Because they can’t work alone, they work as a team at one adult home on certain days and at the other on other days. Neither home has a peer presence every day and neither peer has daily contact with class members on their case load.

2. At Central Assisted Living, where only two peers are assigned due to vacancies, if one peer calls in sick, the second is deployed to another adult home (New Haven, which also only has two peers assigned), so as not to work alone. The same is true for peers working at Wavecrest and Seaview Manor due to recent resignations and leaves.
3. A Belle Harbor peer went to work one Saturday to find no other peer on duty and tried to locate other peers at three additional Community Access homes. When he could not find any other peers on duty, he consulted with his supervisor who suggested he should take a vacation day since he could not work alone. He agreed to do so, seeing no other option.

Some Community Access peers felt that the “do not work alone” rule interfered with the consistency and regularity of peer presence in adult homes necessary for building and sustaining relationships with class members. However, they had different opinions about its value. A number thought it was very helpful to have a colleague on site with whom one can readily consult or vent to, even if s/he is located in a different area of the home. Peers spoke of the value of colleagues in homes wherein the administration and staff are not welcoming, and residents might sometimes act or speak aggressively; these are homes peers report stress around working eight hours alone. Other peers, however, asserted that they felt safe enough to work alone in their homes, and that working alone during certain hours (e.g., earlier mornings before class members left for day program) could positively impact engagement with the class.

The one thing they all agreed on, though, was that the primary issue to be tackled is the problem with vacancies which exacerbates the problem of having to work/not work alone.

4. Evening and Weekend Coverage

The Supplemental Agreement requires that peers (and other settlement providers) to conduct activities during evening and weekend hours. (See Sections F. 2. G. iv and F.3.a)

Initially the peer-run agencies did not schedule nor provide evening and weekend services in the adult homes. It is not clear that they were aware of this requirement in the Supplemental Agreement when they commenced hiring staff. As of March 2019, no such services were scheduled by the peer-run agencies. Based on inquiries into this issue, the agencies began to schedule coverage for these times during Summer 2019.

Schedules and timesheets for August indicated that Baltic Street was providing peer services on Monday or Wednesday evenings at nine of its 10 homes and on a weekend day at two homes. Community Access’ August schedules and timesheets indicated that peer services were offered at all of its 12 homes on Wednesday evenings and every other Saturday or Sunday.

The move to provide peer services during evening and weekend hours has not been without troubles and, based on interviews, its effectiveness should be carefully considered.

Baltic Street reported it has required staff to work either on a Monday or Wednesday evenings; it has hired part-time staff to provide weekend coverage. Community Access instead required all existing staff to work every Wednesday evening and one weekend day every other week. Community

Access peers reported that this fueled low morale, call-ins/absenteeism and turnover. They reported that, when hired, they knew there was an expectation that there would be some evening and weekend hours for special events and such. However, it then became routinized: every Wednesday evening and every other Saturday or Sunday for all peers. Some peers also expressed dissatisfaction with the agency's roll out of the change in hours: it happened suddenly with little time to prepare for major adjustments and schedules in one's life such as securing childcare, transportation issues, etc. This sudden shift in schedules led to multiple peer resignations.

Almost universally, peers interviewed reported seeing limited benefits in terms of class member engagement during evenings and weekends.

1. All Community Access peers work 11-7pm each Wednesday and many Baltic Street peers work one similarly late weekday. Peers noted that for many hours during this shift the dining rooms, which are frequently used for engaging clients, are in use for setting up, serving, and cleaning up meals. They also noted that following the evening meal, class members just want to "veg, have a cigarette and watch their TV shows." Those who had been out all day at program don't want to be involved in another meeting. One peer noted that office space which she is allowed to use during the week is locked up on evenings and weekends.
2. Peers working weekends reported that class members view these days as their days off, and "just like the rest of us" they want to use their free time to go out with family or friends, relax, etc., and not engage with peers.
3. Peers from both agencies reported adult home staffing on evenings and weekends is skeletal. One peer called weekend work like being in a "ghost town." In the absence of staff, class members turn to peers for assistance when something goes wrong: a toilet gets clogged, someone gets sick and there's a mess on the floor, etc. Peers feel compelled to spend their time trying to track down or call for appropriate adult home staff to address the issue. Peers also noted that during these times, in the absence of staff, some residents engage more in "inappropriate" behavior (e.g., physical and verbal fighting, making sexual comments towards other residents and peers themselves). Working under such conditions, they reported, increases feelings of burnout.

4. Working Space and Privacy

1. Space and Privacy within the Adult Homes

Working spaces varied widely by adult home, ranging from private offices exclusively for peer use (e.g., Belle Harbor, Seaview) to no space anywhere in the home designated just for peer use (e.g., New Gloria's Manor, Oceanview). Most adult homes provided an area within a public space and some provided what we characterize as potentially private space. Many adult homes provided more than one of these types of space, though very few provided private space exclusively for peer use.

Public space included areas within dining rooms, recreations rooms, and lounges. The degree to which this space actually provided a modicum of privacy varied by home. For example, peers at Riverdale Manor/The W use a corner of the dining room which is quiet and where they often meet class members undisturbed. At most other homes, however, peers reported working in dining rooms and lounges in which adult home staff might be sitting within earshot and residents often approached them (e.g., Brooklyn Terrace, Central Assisted Living, Lakeside Manor, Wavecrest). Peers at such homes voiced concerns that their conversations were vulnerable to eavesdropping. In some of these homes loud PA systems, nearby medication lines, and recreational groups further increased interruptions and limited privacy. Interruptions and noise also made it difficult for peers to accomplish administrative tasks, such as writing up notes and making professional calls. For example, at Lakeside Manor, peers sit at a table in the busy recreation room, within feet of a constantly running air curtain. Two peers described the situation as “the greatest challenge” of their job, with the noise so loud it was difficult to communicate with class members and impossible to “get into a flow” of conversation.

Some adult homes have space that could be private, but its use and privacy is contingent upon approval by administrators. In some homes, such space is, in fact, usually private. For example, at Harbor Terrace, Mariners Residence, and Queens Adult Care Center (QACC) peers work out of conference rooms with doors they can close, and they rarely have to cede use to others. In most homes, however, peers report that potentially private space was rarely available, rarely private, and/or involving extensive rigmarole each time to secure use. For example, Surfside has offered several spaces, including a private office and one lounge “temporarily... closed” for peer use. In practice, however, when peers ask to use the private office - - which they must do every time they need it - - they are usually told the administration needs it for meetings. Further, the administration has not actively closed the lounge for peer use, instead requiring peers to ask for a Do Not Disturb sign each time they seek to use it. Peers then must handle traffic in/out of the lounge themselves and have found it untenable to force out residents who are used to watching television there. Similarly, at Lakeside, peer concerns about the noisy recreation room have been met with the option of the Glass Room (a closed off space within the recreation room) or a conference room. In theory these could be helpful alternatives to the much noisier recreation room, but in practice the peers must ask the assistant administrator every time they would like to use these rooms, with use contingent upon “when privacy is required”. At homes like Surfside and Lakeside, then, potentially private space may appear a good option on paper, but such options have not been realized in practice.

As another example, Park Inn has provided peers with a former smoking lounge for use. Although this lounge has a door and could be private, it contains an interior room used by maintenance staff that is accessed at least a few times per day, without warning. The room also contains three video cameras feeding a live stream to the administrator’s office; staff can monitor both peers and any class members who enter the room at any time. Thus, a potentially private room is in fact a significantly compromised environment for peers and class members.

Peers shared strategies to help cope with the lack of privacy in many adult homes. For example, peers in many homes approach class members in their rooms and, with their permission, enter for private discussion. However, multiple peers stated they did not currently feel comfortable entering class member rooms for reasons such as sanitation (e.g., bedbugs) and safety (e.g., maintain firm boundaries with class members of the opposite sex). Peers also described extensive use of outdoor spaces for private meetings; they invite class members out to patio areas, for a walk down the block, and in the cases of at least two peers, class members themselves chose to wait for them outside when they park their cars in the morning, to speak privately. Peers relying on outdoor spaces for privacy were uniformly concerned about finding an alternative during winter weather. Finally, a few peers have begun visiting class members at day programs. These visits continue to be met with pushback from some program staff and peers requested additional information and support to make better use of this option.

At the leadership level, the peer-run agencies are offering new strategies to address space and privacy concerns. In September 2019 Baltic Street leadership began offering Administrative Days for front line peers to go to a Baltic Street office to complete paperwork, make phone calls and perform other administrative tasks, in a quiet and private environment. Peers also have the chance to interact with other colleagues on these days. Baltic Street peers did not report that this absence from the homes negatively impacted their work with class members but given this is a new situation its impact should be monitored over the longer term.

Community Access peers take shorter periods of time off-site most workdays, usually during lunch (when the dining rooms and class members are unavailable) or at the close of the day. They go to libraries, coffee shops, or just sit in their cars to type up notes and make calls. They reported this arrangement was necessary in order to keep up with their work, but that it sometimes meant missing opportunities to find class members. For example, if they were hoping to catch a class member upon his return from day program, they would have to decide between waiting for the class member or writing up notes.

Both peer-run agencies also regularly hold off-site meetings: Baltic Street has in-services every other Friday for all peers and Community Access holds monthly all-staff meetings and biweekly supervision meetings that are sometimes off-site. Community Access has also instituted recently the option of peers remaining in office for a full day if they arrive for a partial day meeting or training; some peers like this option, as they don't waste hours in commute time between their homes, the office, and their adult home work site. They use this additional time in office to catch up on administrative tasks described above. Depending on individual peer's length of tenure with their agency, they may also spend additional days out of the adult home for orientation and core trainings (this is most intense during peers' first months of employment).

2. Off-site Activities for the Class

Baltic Street peers report taking class members on small outings, like to the corner store, and there have been occasional, more elaborate outings, such as to the New York Aquarium and the movies. Two peers have taken leadership roles in planning more outings, though as one peer states “It could happen more than it does, but it’s a lot of work.” A specific planning challenge has been transportation for class members with limited mobility. For example, an Aquarium trip required a few block’s walk from the subway to the Aquarium entrance, and this walk was taxing enough to result in one peer able to take only one class member along. It is evident to peers that other transportation options could increase outing participation, but this may require budget allocation for this purpose.

Community Access has engaged in more elaborate outings, such as going to a bowling alley, baseball game, and an agency-wide picnic. Several peers reported planning more local outings, such as taking class members out for coffee, for a walk along the boardwalk, or shopping at a local store. Some front line peers stated they felt there was not sufficient budget for local outings and wondered if there could be a more generous, streamlined system in place for financing these activities, such that the amount individual peers could spend could increase and - - when applicable - - reimbursement wait times could decrease.

A final point on outings: while peers reported some outings to help class members gain confidence and independent living skills (e.g., going shopping) they did not report outings to specific neighborhoods where class members might consider moving. Given there is often a “mismatch” between where class members desire to live and where housing contractors tend to have stock, this seems a missed opportunity for peers to help class members familiarize themselves with new neighborhoods. Outings to neighborhoods with poor reputations could be especially important to help class members gain a more realistic sense of the place. An added benefit of such outings is that some peers live in these neighborhoods themselves; for example, a peer who lives in Jamaica expressed he could map the “good” and “bad” parts of the area to class members and help them understand there was much more to it than its traditionally negative reputation.

3. Additional Working Conditions

Working conditions for peers remain a persistent challenge in most adult homes. Related to the space challenges outlined above, most peers reported they still did not have a private, secure space to store personal belongings. In a few homes which had provided private space for peers, belongings could be stored safely. In almost all homes, however, peers continued to carry their belongings with them throughout the day. Baltic Street has not yet provided agency-financed storage for peers, while in August 2019 Community Access began delivering lockers to peers in some adult homes.



Sign on Restroom Door at Garden of Eden

Access to restrooms in the adult homes is also a mixed issue. Many peers reported they have access to a restroom - - be it a staff or general visitors' restroom - - that is functional and fairly clean. However, peers in at least four homes report ongoing challenges with restroom access. For example, Parkview Manor has presented challenges since Community Access began work in March 2019. Peers were refused entry into staff restrooms and told to use resident restrooms (sometimes called guest restrooms) that were often filthy. Among many issues, currently the women's room has had limited stalls in use, including none that properly locked. Although both Community Access leadership and the State have raised the restroom issue with the Parkview administration, it remains a daily source of discomfort for the peers. At Brooklyn Terrace peers face

similarly daily problems with the restroom. They have been told to use one single restroom that all other staff use, but during Spring 2019 it was often filthy and sometimes out of service. During the summer, peers left the home and walked to a nearby restaurant restroom every day. At Garden of Eden staff restroom access was restricted in July 2019 (see photo) and peers now use "public" restrooms (for residents and visitors). One peer indicated that since the staff restroom restriction clean facilities were hard to find; for example, on the day she was interviewed feces had to be cleaned off the floor of the nearest restroom earlier in the morning.

Bedbugs remain a challenge for peers in at least five adult homes. As a New Gloria's Manor peer put it, "it's a constant farm over there" such that even with frequent spraying the infestations persist. A bedbug infestation in Park Inn became so severe during summer 2019 that other service providers suspended visits for weeks. The peers were not informed of the problem for an additional period of time and were then only by the housing contractor - - not the State - - which they viewed as unfair and unsafe treatment. Finally, in some homes with persistent bedbug problems (e.g., Brooklyn Terrace, New Gloria's) peers carried large plastic bags and covered chairs before they sat down (see photo of dining room at Brooklyn Terrace). As one peer noted, however, "What do the plastic bags tell the class members? It becomes us versus them and they're dirty, that's not what we mean but

that's how it looks." In attempting to ensure their health and safety, peers thus found they might compromise rapport with class members.

Telephone and Internet connectivity was not reported as major an issue as compared to other working conditions. Some adult homes had given peers access to their Wi-Fi connection, while most peers could rely on either a hotspot (Baltic Street) or cellular network



Dining Room chairs covered with plastic bags

(Community Access) connection to access the Internet. Unfortunately, the locations of certain adult homes (e.g., Park Inn, Garden of Eden, Parkview) seem to contain dead zones, resulting in very poor Wi-Fi and cell phone connectivity. Peers in some such homes have requested the use of boosters to allow them to access the adult home Wi-Fi network; some Community Access peers have also requested hotspots. Further planning is needed to solve the problem of connectivity in these homes while still ensuring secure transmission of private health information.

4. Discouragement and Interference

Discouragement and interference remain a persistent challenge in many adult homes; see Appendix A for the Office of Community Transitions (OCT) Peer Bridger Tracker, annotated with Independent Reviewer findings. The most cited source of these incidents was adult home staff such as administrators and in-home medical and social services staff. Typical discouragement involved staff telling peers a class member would not qualify for the settlement or would not make it on her own in the community.

In many of our interviews, it was salient that peers were as frustrated by the perceived lack of recourse available in instances of discouragement and interference as the actual incident itself. Specifically, peers described instances in which they reported an incident they believed to be discouragement or interference to agency leadership but never heard back, or heard only that the agency would not pursue it with OCT. In other instances, peers did speak directly with OCT about an incident and were told it would be studied further, yet they never heard back - - either from OCT or their own agency leadership. One peer described the process of discouragement and interference reporting as "a dog without teeth" as OCT never indicated to him that any of the incidents he reported were addressed.

Although mentioned less, peers sometimes encountered discouragement by other service providers. For example, peers described instances of Adult Home Plus (AH)+ care coordinators stating a class member was not capable of living on his own and guardians refusing to communicate with class members or peers. The broader concern peers cite in these cases is not having a sense of clear steps to take to address service provider discouragement. They point out they still do not have full contact information for AH+ care coordinators and have no information for guardians or other providers such as Managed Long Term Care Plans (MLTCs). Further, they have no training on the expected roles and recourse for addressing role deviation for these providers.

An additional concern about AH+ care coordinators peers mentioned was that they were not always assigned to class members until well after peers began engagement. Peers were sometimes faced with class member requests for support which are more appropriately the responsibility of a care coordinator, but in their absence, they felt they had to address the request themselves or to take the time to find other sources of support. This dilemma also occurred when class members had care coordinators, but peers did not have information on who they were or how to contact them, or the care coordinator did not contact the class member the required four times per month.

Peers cited other procedural factors as impairing the effectiveness of their work even when such factors were not discouragement or interference themselves. For example, several peers mentioned the lists of class members they receive from their agencies were expected to contact were out of date, including listings for deceased class members and class members in hospitals or nursing homes; these lists resulted in time wasted as peers attempted to track down such class members. Peers provided updated information on these class members to their agency leadership and/or OCT, yet often received subsequent lists with the same class members still there. To attempt to get a more current sense of the class, some peers ask housing contractors for their latest lists, though they acknowledged (and housing contractor staff reported) that this could be a burden on other staff who have their own job priorities. Other peers are aware of lists distributed to other service providers (e.g., CTL lists, Weekly Reports) and wondered why they did not receive copies of these lists. Not all peers were aware their own agency leadership received regularly updated lists from the State, but those that were also wondered why front line staff could not obtain them.

Additionally, Baltic Street peers working in five Brooklyn homes spoke about the housing contractor shift from Jewish Board of Family and Children Services (JBFCS) to Pibly and St. Joseph's Medical Center (SJMC). Peers' previous relationships with JBFCS varied but they noted consistently that this service provider shift has impeded their ability to support class members. From June 2019 to October 2019, there was minimal to no JBFCS presence in these homes and the new housing contractors were only beginning to introduce themselves (e.g., meet and greet events are occurring throughout October 2019). When peers referred potential class members for assessment, the wait for the housing contractor was interminable (e.g., the only JBFCS assessor reported she could only complete one assessment per week across all five homes). Further, without housing contractor input they were limited in their ability to provide timely updates on progress to class members anxious to

know the status of their transitions. These issues affect a substantial number of class members served by JBFCS, which was the largest Housing Contractor.

5. Conclusions

As the preceding discussion indicates, there have been a number of challenges in implementing an ambitious Peer Bridger program across the 22 adult homes covered by the Settlement Agreement and the Supplemental Agreement. Some of these surfaced in the early stage review conducted by the Independent Reviewer team which identified four early concerns. These May 2019 concerns were:

1. Peer bridger role clarity vis-à-vis the roles and responsibilities of other settlement service providers.
2. “Priority” populations and regularly updated lists of class members, including contact information for AH+ care coordinators if they have been assigned.
3. Clear communication with peer bridgers about availability of space and privacy at each adult home, including alternate arrangements (e.g., off-site space, modified work schedules, use of class member rooms) when private space is impractical or impossible to secure.
4. A feedback loop to inform peers, who have complained formally or informally to the State about interference, discouragement or other impediments, about the actions taken in response to their communication, and any agreement reached about corrective actions.

The Independent Reviewer recognizes the State and peer-run agencies now have plans in place to address aspects of each of these four concerns. However, our recent work suggests that all of these concerns remain active challenges for the peers. More specifically:

1. Peers have settled into their roles and many report an increased understanding of and collaboration with service providers such as housing contractors and AH+ care coordinators. However, there are also many peers who have little to no understanding of the role of AH+ care coordinators nor how to collaborate with them. Some peers also reported AH+ care coordinators did not seem to understand the peer role well. Peers have also encountered other actors, such as guardians, who may play an integral role in class members’ transitions but about whose roles and responsibilities peers have no training.
2. OMH has provided peers with some clear priority populations, including (1) the class members refusing to engage in the assessment process after agreeing to be assessed (Supplemental Agreement, Sec. B(5)); and the 145 class members who progressed through all stages of the transition process but did not move. OMH has also provided updated lists of all class members by adult home. However, front line peers report great frustration with class member lists, which are often out of date and do not include AH+ care coordinator information (even though it has been shared with peer-run agency leadership). Peers also report ongoing questions about how to allocate their efforts after attending to priority populations, and would like additional

training around working with non-engaged (i.e., not interested) class members, non-class members interested in engaging with them, etc.

3. With the exception of about five adult homes where private space for peers is almost always available, space and privacy remain continuing challenges for most peers. Peers deserve great credit for continuing to carry out their duties under adverse conditions, but their fortitude should not minimize the severity of space and related working condition concerns. Compounding this issue is the fourth area of focus, the (lack of) a consistent feedback loop to keep front line peers apprised of progress in addressing these concerns.
4. The Department of Health OCT has implemented multiple processes - - from a Peer Bridger Tracker to regular visits to the adult homes - - to monitor and respond to issues with space, privacy, working conditions, potential interference, discouragement, and other impediments. Almost all peers were aware of OCT as a resource, but the majority of front line peers interviewed stated that when they reported concerns to OCT they either did not hear back at all, or did not hear back about specific, corrective actions to be taken. In some instances, peers believed the feedback loop stalled at the peer-run agency leadership level (i.e., OCT communicated with someone in leadership but the communication did not reach front line peers) while in others it was simply not known what had happened following their contact with their leadership and/or OCT.

However, all of these issues are overshadowed by the ongoing difficulty in meeting a core requirement of the Supplemental Agreement to hire and deploy at least three FTE peers to each of the adult homes. The efforts of the peer-run agencies to hire, train and deploy peers in sufficient numbers are being undermined by the high rate of turnover in these positions which seems to be affected in part by the difficult working conditions peers experience.

Peer bridgers are a potentially valuable resource within the adult homes that serve class members. Most of the peers we encountered are passionate about their work, even as they express frustration with many of the working conditions described in this report. As a group, they have demonstrated creativity and persistence in confronting and coping with the challenges they face.

Several peers used the phrase “meet them where they are” to describe the work they do with class members. In some instances, this involves peers directly engaging in work related to the settlement (e.g., helping class members obtain IDs or ask other providers about obtaining IDs). In many other instances, however, peers address the current needs and interests of class members, undertaking work that may have no direct connection to the settlement (e.g., helping class members with problems in the home unrelated to the settlement, setting up book or cultural clubs, etc.).

Peers described this work on class members’ own interests as strategic rapport building, to serve as a bridge to future settlement-related work. It is also clear that some peers are expertly using their lived experience to support class members. They have described their own challenges in navigating complex medical and social systems and how they leverage these experiences to help class

members interact with settlement service providers. As one example, a peer proficient in advocating for herself and family members described how she instructed all class members on the importance of learning who their AH+ care coordinator is and what they could do for them. She had advised them to ask AH+ care coordinators - - and indeed all service providers - - for business cards, then save these cards in a safe place. Given the overwhelming array of providers class members must navigate as they wend through the transition process, simple advice like this may be of real benefit.

This example relates to another positive impact of the peer bridger program. It is clear that being in the adult homes full time gives peers an unusually detailed understanding of barriers to engaging in and getting through the transition process. In response to these barriers, peers advocate and support class members in advocating for themselves, including before adult home administrators, other service providers, and the State.

Despite these many positive contributions of the peer program, the overall impression left from this review of their deployment to the adult homes covered by the Settlement Agreement is one of missed opportunities. These missed opportunities arise from an overall lack of focus on the primary reason this program was created: to assist class members to take advantage of the opportunity to transition to supported housing or another suitable community living alternative if they choose to do so.

Everyone engaged in this program had had difficulty clearly articulating the mission and priorities for this program beyond relationship building. It is not surprising, then, that some peers proudly boast that they make no distinction between assisting class members or other residents. They help whoever asks for it. While this is an admirable sentiment, it does not advance the implementation of the Settlement Agreement and could instead have the effect of helping class members adapt better to the environment of the adult home.

At a time when the parties are engaged in a thoughtful re-examination of the entire structure and process for implementing the Settlement Agreement, the Independent Reviewer thinks it would be appropriate to also consider how this valuable resource of peer bridgers might be better integrated into and complement the teams which support the class members. In particular, this is a critical opportunity to consider how peers may best bring their skills to bear on assisting class members through the choice-making process and the transition-related tasks.

5. Recommendations

1. Staffing and Schedules

1. The peer-run agencies should re-double efforts to fully staff all peer positions. In doing so, they should consider hiring part-time and floater peer staff to cover unexpected absences. These peers should be trained in the specific requirements of their position covering absent peers as well as trained through the standard core training series.

2. The requirement to schedule peers to work evenings and weekends should be reconsidered based upon consistent reports from frontline peers about the limited benefit from this commitment of resources. These schedules may also contribute to the problem of burnout and turnover, undermining one of the primary reasons for peer presence in adult homes: to be a consistent source of support and to build more time-intensive relationships with class members.
3. Likewise, the across-the-board rule that no peer works alone should be revisited; working alone should not be required of peers, but it should be an option to them. The peer-run agencies should be given the discretion to determine at which homes such scheduling is necessary and under what circumstances it is not. Attempts to rigidly comply with this requirement have the counterproductive effect of reducing the time peers spend in the adult homes.

2. Working Space and Privacy

1. There is a general need for the State to engage in more rigorous follow-up in the adult homes to gauge if the Spring 2019 space plans developed with all homes are, in fact, being implemented. In cases in which the space plans are not yet realized, the State should revise its documentation of the plan and share it with the peer-run agencies and peers.
2. Related, the State should provide clear updates for peers regarding the availability of space and privacy at each of the adult homes. Where there are physical constraints that make private space impossible or impractical, the State needs to make good on its previous commitment to seek alternate arrangements for space off-site and/or the State and peer-run agencies must consider modified work schedules to allow peers to be on site when available space is not in use. For homes in which peers feel comfortable, continued emphasis on meeting in class member rooms is advised.

3. Off-site Activities

1. Off-site activities are reportedly going well, yet there seems a missed opportunity for peer bridgers to offer more robust independent living skills activities. More consideration should go to activities such as grocery shopping, taking public transportation, visiting public libraries, etc. The peer-run agencies should be encouraged to take advantage of their own pre-existing resources that may offer opportunities for class members to gain independent living skills and enjoy cultural events (e.g., the Baltic Street Wellness Center offers an impressive array of programming relevant to class members thinking about living - - and enjoying life - - in the community). Consideration should also go to visits to neighborhoods where housing contractors have available housing stock, especially neighborhoods that may not have a good reputation but offer many opportunities for class members (e.g., Brownsville, Jamaica).
2. Having now planned for and executed both large-scale, program-wide activities and local, individual peer-led outings, the peer-run agencies should evaluate factors to

adjust to increase the frequency they can be offered and the rate of attendance of class members. Two such factors emergent from our work are: 1) available budget, particularly to front line peers planning local outings, and 2) transportation options, particularly for class members with medical and mobility limitations that might preclude public transportation use.

D. Working conditions for peers

1. Beyond working space, the State and peer agencies should continue to work on space for peers to store their belongings, as well as consistent access to functional, sanitary restrooms. While neither the State nor the adult homes can prevent bedbug infestations, there should be more consistent monitoring of homes known to have this problem. For the few homes with significant connectivity challenges (e.g., Garden of Eden, Park Inn, Parkview) the State and peer-run agencies should expedite secure means of boosting connectivity.
2. Peers in the five adult homes formerly served by JBFCs should receive additional information and updates regarding the progress of the transition to Pibly and SJMC. They should also be given information on how best to support class members who express interest in being assessed or the status of their transition. On a broader level the State should expeditiously eliminate the backlog of assessments at former JBFCs homes, including identifying the number of potential class members waiting to be assessed and targeting a reasonable completion date. This plan should be shared with peers.

1. Discouragement and Interference

1. The State, in collaboration with peer-run agency leadership, should create a consistent, timely feedback loop for front line peers. This feedback loop should inform peers who have complained formally or informally about interference, discouragement or other impediments, about the actions taken in response to their communication, and any agreement reached about corrective actions at the adult home. In the absence of such feedback, complainants are often left in the dark about whether their complaints have been heard or acted upon and this, in itself, has a discouraging effect on their willingness to invoke the authority of the State to deal with the problems they encounter.

2. Training and Information Sharing

1. Underpinning other recommendations is the need for senior and front line peers to receive additional information and training, both from the State and their own agencies. Peers should have the most updated class member lists possible, and these lists should contain AH+ care coordinator names and contact information. It should be clearly explained to peers who is a priority on their lists.

2. Training should also address of the Peer Bridger role in relation to other settlement providers that interact with class members, including AH+ care coordinators, guardians, MLTCs, Pathway Home, etc. During our conversations with peers, this issue has arisen repeatedly. Many peers still do not have a clear understanding of the roles and responsibilities of these other actors, and consequently of their own unique responsibilities.
1. The State is currently planning a second State and Plaintiffs training for November 2019. We encourage this training to be delivered regularly, with topic areas updated based on peer feedback. For example, since the first training in May 2019 several peers have become involved in guardianship cases and asked for information and training about their role in such cases.