



BENJAMIN SETTLEMENT AGREEMENT

IMPLEMENTATION PLANS AND STRATEGIES

WHAT IS THE BENJAMIN SETTLEMENT AGREEMENT?

- In April 2009, the Department of Human Services (DHS) was subject to the Benjamin lawsuit, which alleged that individuals with an intellectual disability were unnecessarily segregated in state-operated ICFs/ID in violation of the Americans with Disabilities Act.
- The nature of the alleged segregation was that the Department failed to offer ICF/ID residents placement in a community setting.
- The court ruled in favor of the Plaintiffs and a settlement agreement on the remedy was reached in June 2011.
- The settlement agreement was subsequently vacated by the Third Circuit Court in December 2012 in response to a legal challenge from a group of ICF/ID residents who claimed that the settlement requirements were contrary to their wishes.
- A new settlement agreement developed by and agreed upon by all parties was signed in June 2014. The court approved the settlement agreement in September 2014.

SETTLEMENT OVERVIEW

- The settlement requires that the Department's Office of Developmental Programs (ODP) take measures to protect individual choice and facilitate transition to community residence for those who so choose. Some of these measures include:
 - Ensuring that each individual residing in a state-operated ICF/ID who has the capacity to make an informed choice and expresses a preference for community living will move to the community;
 - Ensuring that everyone who is capable of making a choice about where he or she lives may make a choice at any time;
 - Committing to respecting the wishes of individuals, legal guardians, and substitute decision makers who decide to continue residency at a state-operated ICF/ID and honoring their choice of living arrangement;
 - Committing to maintain the level of care currently provided to individuals residing in a state-operated ICFs/ID, and assure that the state ICFs/ID continue to meet the criteria needed to protect the health, welfare, and safety of individuals, and to provide them with active treatment.

SETTLEMENT OVERVIEW

- Transitioning at least...
 - 80 individuals to the community by June 30, 2015,
 - 50 individuals to the community between July 2015 and June 2016,
 - 50 individuals to the community between July 2016 and June 2017, and
 - 50 individuals to the community between July 2017 and June 2018
- If at any time there are fewer individuals on the planning list than the number of individuals slated to move in the agreement, the Department will work to move only the number of individuals remaining on the list.
- Creating a website that allows providers to view information about individuals who chose to transition to the community and to notify ICF/ID staff of their potential interest in serving an individual; and
- Monitoring community transition to ensure positive outcomes, including prevention of arrests or unnecessary readmissions to ICFs/ID.

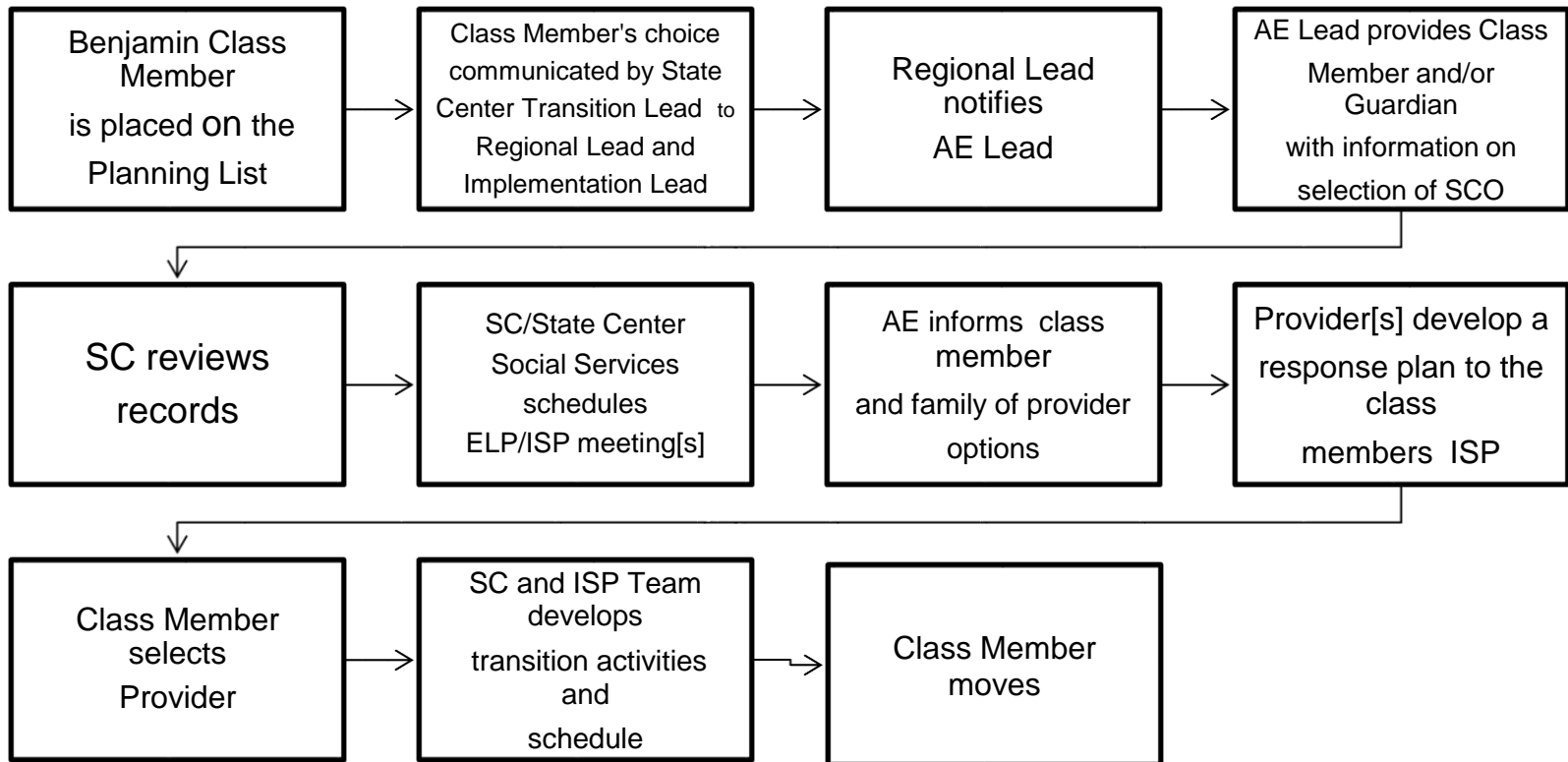
CURRENT STATUS

- As of January 15:
 - 46 class members have moved to the community since the original settlement agreement;
 - There are 64 class members on the Planning List today;
 - Of the 64,
 - 6 class members have projected transition dates between January – March, 2016;
 - 6 have a provider selected but no home identified yet;
 - 2 were recently added;
 - 2 were added as a result of the Facility Director Determinations; and
 - 48 have no provider selected yet.

MOVING FORWARD

- The AE's will manage the transition process with the cooperation and support of the Centers and ODP regional staff.
- SC services will begin very early in the transition process.
- The Provider Selection process will be enhanced.
- ODP has identified resources for new development.
- AE's that transition 3 class members on the Planning List will receive community match capacity.
- Tracking and reporting of transition milestones will be used to measure progress and identify barriers.
- An Implementation Team will oversee the transition process and provide support to all parties [AE's, Providers, SC's, center staff, etc.].

ROLES



ROLES

- The community supports roles; Regional leads, AE Leads, Supports Coordinator, and Providers will remain the same for the class members who are have a Transition Plan and a projected movement date.
- The AE will coordinate the transition of class members including tracking progress and identification of obstacles and assist wherever necessary.
- It is preferred that the SC who will be providing supports after the individual moves to the community could be engaged early in the planning process to provide greater consistency and support beyond the transition.
- For class members whose planning has not been initiated or who do not currently have a provider, the flowchart will be followed, with the key difference being the roles of the AE Leads and Supports Coordinators.
- The SC will orchestrate the person centered planning activities, including the ELP and the ISP. These will supplement or substitute for the current '1-page descriptions when providers are considering referrals.
- SC's will coordinate with State Center Social Service staff to set meetings, invitees, locations and transition planning and implementation.

CURRENT BARRIERS

- MATCHING HOUSEMATES
- HOME MODIFICATIONS
- PROVIDER INTEREST

MILESTONES

Progress will be tracked and measured on the following milestones* in the process that represent significant progress in transition to the community:

- ELP completed
- Provider selected
- Home procured
- ISP/Transition Plan completed
- Projected transition date set

* There are many interim steps that will be tracked also, however; the above milestones are predictors of ultimate success.

PROVIDER OUTREACH

The Problem:

- Provider interest has been generated through their access to the website that includes 1-page descriptions of class members on the Planning List.
- 75% of the class members on the Planning List have no provider selected. Some class members have had no provider interest expressed at all.
- Most responses from providers have been to fill vacancies in existing homes. And some of these are removed due to community emergencies.
- Limits on start-up funding and difficulty in identifying compatible housemates has resulted in limited new development.

PROVIDER OUTREACH

The Plan

- The Settlement Agreement requires that the 1-page descriptions are completed. However, when a new class member is added to the Planning List, an Essential Lifestyle Plan [ELP] will be posted on the website to give providers a more person centered description for their consideration.
- ODP will work with the counties to prompt provider outreach.
- ODP will address start-up needs
- ODP will also provide Life Sharing resource and Training opportunities

PROVIDER SELECTION

- ODP will develop standardized criteria for a Provider Response Plan. This plan must be completed and presented to the class member and team members for review and an opportunity for questions and follow-up.
- SC's will have tools to assist class members and families/guardians to review provider response plans and select among willing and qualified providers.

NEW HOME DEVELOPMENT

- ODP will not support single person homes unless the need is identified and justified in the individual's ISP.
- Twelve [12] counties/AEs have only one class member identified.
- ODP will assist in strategizing how to find matches for people and alliances to maximize opportunities for development of group homes.

START-UP

- ODP will provide additional start-up monies to meet the individualized needs of class members being served in new homes.
 - The start-up application process will be revised to include AE review and approval of provider requests.
 - Additional start-up funds are limited to necessary accommodations for class members physical and health and safety needs.*

* Start-up does not include down payments on purchased homes.

Supports Coordination

- ODP is requesting that AE's begin the SCO choice upon notification that a class member has been placed on the Planning List.
- For the 48 class members currently on the list with no provider selected yet, SCO's shall be selected by March 15th.
- For the 16 class members on the Planning List with a provider selected, if not already done, SCO's shall be selected by February 28th.
- Supports Coordinators will:
 - Work with the Center Social Workers to identify a facilitator for the class members' ELPs.
 - Initiate the ISP and lead team meetings.
 - Finalize the transition plans.
 - Coordinate transition visits.

EXPECTATIONS

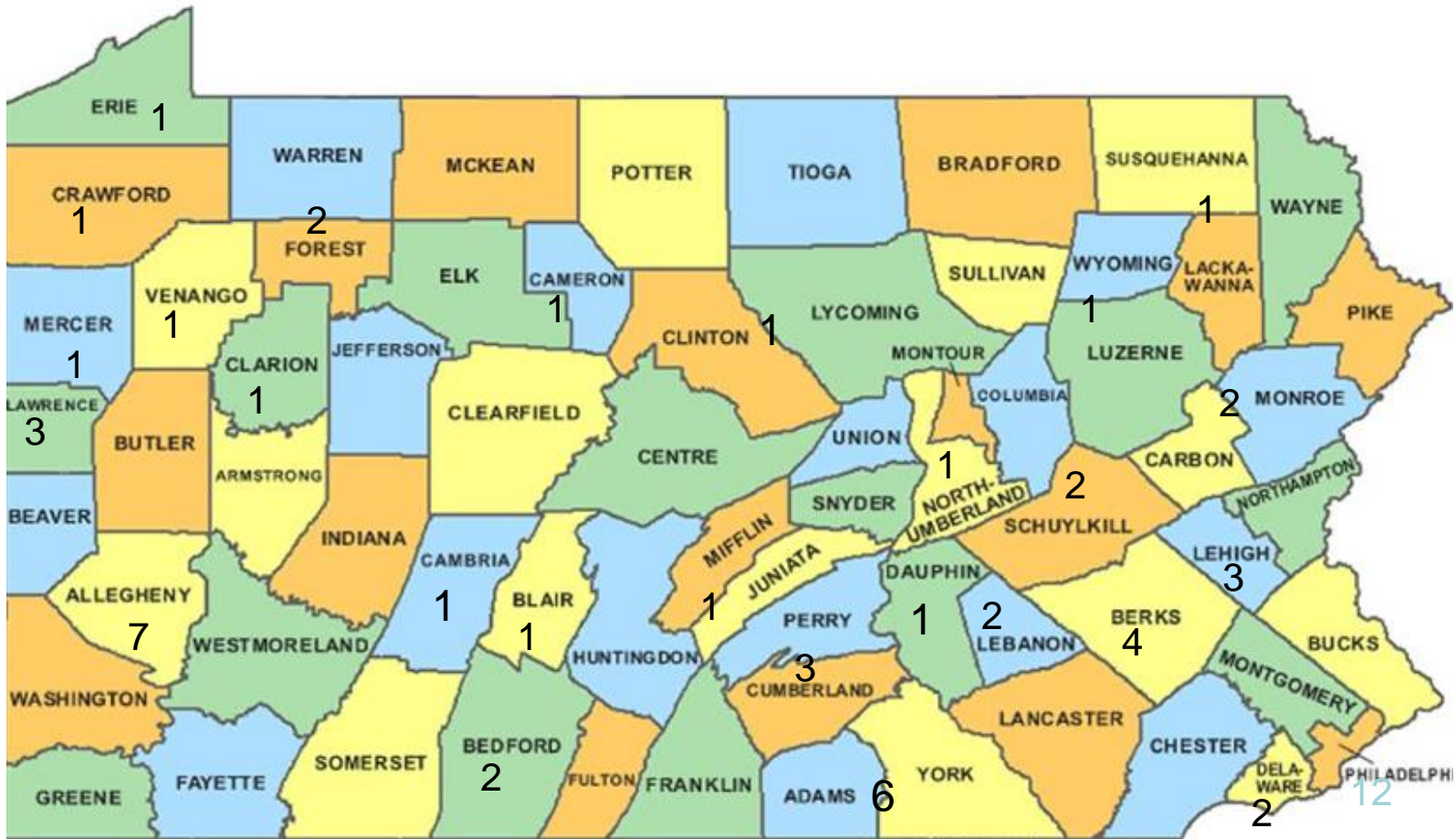
ODP has developed expectations regarding timelines for implementation. These are guidelines, but will be used as measures to evaluate progress and alert the Implementation Team to any possible barriers or need for troubleshooting.

- All class members on the current Planning List without a provider selected will have a provider selected by April 30, 2016.
- New class members placed on the Planning List will have a provider selected within 45 days of being placed on the list.
- Class members shall transition to the community within 3 months of the date a provider is selected *if* they are moving to an existing home.
- Class members shall transition to the community within 6 months of the date a provider is selected *if* they are moving into a new home.
- Class members shall transition to the community within 9 months of the date a provider is selected *if* the home requires building or renovations.

TRACKING & REPORTING

- ODP has developed a tracking tool and protocol to use as day to day tracking as well as an At-A-Glance report on the status of the milestones.
- AE's will use the identical spreadsheets and provide updates to Regional Leads for ODP updates.
- Status updates will be sent by providers and AE's via a dedicated mailbox.
[RA-BenjaminImplmnt@pa.gov]

▶ Benjamin Class Member's Registration Counties



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NEXT STEPS

- ODP will provide each AE with updated information on class members on the Planning List and their status.
- In order to benefit from the allocation of community match, AE's with fewer than 3 class members on the planning list should develop alliances to explore shared efforts.
- AE's that successfully identify alliances shall notify the Regional Benjamin leads with their proposals.
- SC's shall be assigned by February 28th for class members with providers selected.
- SC's shall be assigned by March 15th for class members with no provider interest expressed.

CONTACT INFORMATION

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