

FOR YOUR INFORMATION

FYI FYI FYI FYI FYI FYI FYI FYI FYI FYI

Issue 21-15 (REV)

Date: 09/24/21

KATIE A. SEPTEMBER 2020 SETTLEMENT AGREEMENT

Katie A., was filed by Plaintiffs in 2002 in federal court on behalf of a class of children and young adults with mental health needs who were in foster care or in imminent risk of being in foster care. The lawsuit alleged that the State and County's treatment of the Class violated state and federal law. The County denied liability, but entered into a Settlement Agreement in 2003 aimed at improving the delivery of mental health services to foster youth.

From 2003 until January 2019, the County, Plaintiffs, and the Advisory Panel worked together to change the County's delivery of mental health services in our child welfare system. On August 26, 2019, the County filed a motion to terminate the Court's jurisdiction and release the County from this lawsuit. Instead of spending resources litigating the motion, the County and the Plaintiffs decided to dedicate those resources toward the betterment of the class of children and young adults in foster care/at risk of entering foster care; the County and the Plaintiffs agreed to a Settlement Agreement in September 2020.

The Settlement Agreement touches upon the County's foster care system, and two of its main objectives are: (1) to increase the number of Class members who receive Specialty Mental Health Services (SMHS), including Intensive Care Coordination (ICC) and In-Home Based Services (IHBS), and (2) prevent unnecessary psychiatric hospitalizations, placements in Short-Term Residential Therapeutic Programs, and multiple placements.

The Settlement Agreement requires the County to take a number of actions and implement various practices. Enclosed with this FYI is an excerpt of the Settlement Agreement (paragraphs 56-64) reflecting the County's obligations in the following areas:

- **Training/Coaching on Pre-Replacement Child and Family Team Meetings to Prevent Placement Disruptions** (paragraph 58)
- **SMHS for Children and Youth** (paragraph 59)
- **Working with class members with Intellectual/Developmental Disabilities** (paragraph 60)
- **ICC and IHBS** (paragraph 61)
- **SMHS Materials and Training for County Resource Family Approval Caregivers** (paragraph 62)
- **Therapeutic Foster Care** (paragraph 63)
- **Data Reporting** (paragraph 64)



20.1

If you have any questions regarding this release please e-mail your question to:

Policy@dcfs.lacounty.gov

(right click to open footer section and access link)

Please review and familiarize yourselves with the practices the County must implement in connection with the Settlement Agreement.

To support and align the Department's efforts with the Settlement Agreement, the following trainings were developed:

- Placement Preservation Strategies within the Context of a Child and Family Team
- Identification and Linkage to Services for Developmental Delays and Disabilities

Both trainings are mandatory for all Children's Social Workers, Supervising Children's Social Workers, and Assistant Regional Administrators, and are available through Learning Link.

It is Management's expectation that workers complete all the trainings and adhere to the terms of the Katie A. Settlement Agreement.



If you have any questions regarding this release please e-mail your question to:

Policy@dcfs.lacounty.gov

(right click to open footer section and access link)

IV. SPECIFIC AGREEMENTS AND BENEFITS TO THE CLASS

56. The main objectives of this Agreement are to (a) increase the number of Class members who receive ICC and IHBS, when medically necessary, in a timely manner and in appropriate amount and duration, (b) prevent the unnecessary psychiatric hospitalization, placement in an STRTP or group home and multiple placements of Class members, (c) provide TFC to Class members for whom this mental health service is medically necessary, (d) allow the County to exit this litigation by the Expiration Date, and (e) allow the Parties to avoid the risk and expense of litigating the County's Motion.

57. In aid of the above objectives, the County agrees as follows:

58. **Agreement #1: Training/Coaching on Pre-Replacement CFTMs to Prevent Placement Disruptions.**

- a. The County will implement a practice that, in the event that a class member's social worker identifies or is informed of a risk of placement disruption due to a class member's mental health condition or behavior, (a) the social worker will timely and appropriately address the risk in collaboration with formal and informal supports, including by attempting to convene a CFTM, and (b) DMH or a DMH provider will timely determine the class member's need for SMHS, including ICC and/or IHBS, and provide such SMHS, including ICC and/or IHBS, as promptly as necessary to meet the class member's mental health needs in order to promote placement stability.
- b. The County will implement a practice that when a class member has experienced one placement disruption due to a class member's mental health condition or behavior, (a) the social worker will timely attempt to convene a CFTM and (b) DMH or a DMH provider will timely determine the class member's need for

SMHS, including ICC and/or IHBS, and provide such SMHS, including ICC and/or IHBS, as promptly as necessary to meet the class member's mental health needs in order to promote placement stability.

- c. The County will implement a practice that a class member's social worker participates in CFTMs convened by the class member's mental health provider.
- d. Provide training on the above practices and DCFS's practice of holding CFTMs as frequently as needed.

59. **Agreement #2: SMHS for Children and Youth.**

- a. For class members (a) who have been hospitalized for a psychiatric condition, (b) for whom PMRT or other crisis intervention has been requested, or (c) who are referred to or discharged from an STRTP, the County shall implement a practice of automatically making a referral to DMH or a DMH provider for a timely determination of the need for SMHS (including ICC and/or IHBS if the child is not already receiving ICC and/or IHBS). DMH or a DMH provider will provide such SMHS, including ICC and/or IHBS, as promptly as necessary to meet the class member's mental health needs in order to avoid unnecessary hospitalization, placement in an STRTP, and/or need for PMRT or other crisis intervention services. DMH will also implement a practice that, in the event a class member is hospitalized for a psychiatric condition, DMH or a DMH provider participates in the hospitalization discharge planning process to ensure appropriate SMHS (including ICC and/or IHBS) are provided, as appropriate, after hospitalization.
- b. The County will implement a practice that if DMH mobile crisis teams determine that a child does not require hospitalization, they must provide appropriate mental health services to intervene in and stabilize the crisis, as necessary, until the child's regular mental health provider is able to intervene and provide appropriate services.
- c. The County will implement a practice that, in the event that a DMH provider or DMH staff identifies a risk of placement disruption due to a class member's

mental health condition or behavior, (a) the DMH provider or the class member's DCFS social worker will timely and appropriately address the risk in collaboration with formal and informal supports, including by attempting to convene a CFT, and (b) DMH or a DMH provider will timely determine the class member's need for SMHS, including ICC and/or IHBS, and provide such SMHS, including ICC and/or IHBS, as promptly as necessary to meet the class member's mental health needs in order to promote placement stability.

60. **Agreement #3: I/DD.**

- a. The County will provide training from experts in I/DD (such as the University of Southern California University Center for Excellence in Developmental Disabilities) to MAT and other DMH or DCFS staff who conduct screening to identify I/DD conditions (including Fetal Alcohol Syndrome), through reports from the family, schools and other sources.
- b. For children identified as having a co-occurring mental health and I/DD conditions, implement a practice of:
 - i. ensuring that class members' social workers promptly apply for regional center services,
 - ii. providing additional training and support to caregivers, regarding appropriate services to these children, and
 - iii. working with the appropriate regional center to transition children with known I/DD from STRTPs to lower levels of care.
- c. For class members who are regional center clients, the class member's social worker or Regional Center Liaison shall:
 - i. invite the regional center service coordinator to attend each CFT; and
 - ii. attend the child's annual regional center planning meetings (IPPs).

61. **Agreement #4: ICC and IHBS.**

- a. DMH will implement a practice consistent with State Department of Health Care Services (DHCS) MHSUDS Information Notice No: 19-026 (IN 19-026) that prior authorization is not required for class members to receive ICC and class members may receive ICC without being enrolled in a specific intensive or other program (e.g. wraparound FSP, or IFCCS). When a DMH provider determines that a class member needs ICC, a DMH provider or DMH staff may thereafter begin to provide ICC to the class member with the requisite consent. When consent for ICC is required from the class member, parent and/or caretaker, appropriate engagement strategies will be applied to obtain consent and services for the class member.
- b. DMH will implement a practice that, after obtaining prior authorization for IHBS as required by IN 19-026, a class member may receive IHBS without being enrolled in a specific intensive or other program (e.g. wraparound, FSP, or IFCCS). When a DMH provider determines that a class member needs IHBS and DMH has pre-authorized IHBS, a DMH provider or DMH staff may thereafter begin to provide IHBS to the class member with the requisite consent. When consent for IHBS is required from the class member, parent and/or caretaker, appropriate engagement strategies will be applied to obtain consent and services for the class member.
- c. DMH will implement a practice whereby a class member or a person acting on the class member's behalf (e.g., parent, foster parent, other caretaker, therapist, and other service provider) may make a request directly to DMH or a DMH contracted provider for ICC, IHBS, and/or other mental health services for the class member. The class member or person acting on the class member's behalf will not be required to first contact DCFS to request mental health services. When DMH or a DMH contracted provider receives such a request, DMH or a contracted provider will provide the class member an assessment and any medically necessary specialty mental health services with the requisite consent.

- d. When a court order is required to provide consent to mental health services, DCFS will seek a court order authorizing mental health assessment and services as promptly as necessary to meet the child's needs.
- e. The County will issue a Provider Bulletin or other written guidance and provide training, clarifying that mental health providers must provide or arrange for the provision of covered behavioral health services—including ICC and/or IHBS—in a timely manner appropriate for the nature of the beneficiary's condition consistent with good professional practice. Such Provider Bulletin or other written guidance shall enclose a copy of Behavioral Health Information Notice No. 20-012 and call attention to the timeframes set forth therein on page 7.
- f. When a request or referral is made for ICC and/or IHBS for a class member, including a request or referral by DCFS for a determination of a class member's need for SMHS, including ICC and/or IHBS, DMH or a DMH provider will timely determine whether the class member needs SMHS, including ICC and/or IHBS. When a class member is determined to need SMHS, including ICC and/or IHBS, a DMH provider will timely provide these services with the requisite consent, consistent with applicable state law, regulations, and guidance. When a class member's need for ICC and/or IHBS is identified during the MAT process, a referral for ICC and/or IHBS will not be delayed until the presentation of findings. When DCFS refers a class member to a co-located DMH clinician for a determination of a class member's need for SMHS, an appointment with a DMH provider will be offered consistent with Behavioral Health Information Notice No. 20-012.
- g. DMH will issue a Provider Bulletin or other written guidance to its contract providers providing information regarding resources made available by the County to assist with the administration of providers' contracts.
- h. DMH will convene a meeting of DMH providers where the providers are invited to discuss with DMH questions regarding the administration of their contracts, including providing and billing of ICC, IHBS and/or other SMHS.

62. Agreement #5: SMHS Materials and Training for County RFA Caregivers.

- a. When DCFS opens a child's case and at the time of each new placement, or within a reasonable time after these events, caregivers shall be provided consumer-friendly informational materials, including as part of information on the child's medical HUB, explaining:
 - i. SMHS and supports, including ICC and IHBS, available to the caregiver and child and how to obtain these services, including the relevant timeframes;
 - ii. the benefits of ICC and IHBS, including in the management of behavior, that support placement stability;
 - iii. how to access ICC, IHBS and other SMHS before a placement disruption occurs;
 - iv. how to request ICC and IHBS and other supports, if the caregiver is having difficulty managing a child's behavior or believes the child needs more intensive services;
 - v. contact information and procedures for requesting access to ICC, IHBS and other mental health services; and
 - vi. contact information for DCFS staff who can assist with the above.
- b. DCFS will supplement training provided to caregivers in the Resource Family Approval (RFA) process and through continuing education RFA classes to include information regarding the benefits of and how to access ICC, IHBS and other SMHS.
- c. A copy of an MHSUDS Information Notice 18-043-compliant handbook shall be posted online and made available to any class member who calls the county mental health plan ACCESS Center about SMHS or contacts a contracted mental health provider to request services.

- d. The format, content, and medium of the foregoing informational and training materials shall be in the discretion of the County. The County will provide a draft of informational and training materials to Plaintiffs' counsel and allow them ten business days to comment.

63. **Agreement #6: Therapeutic Foster Care.**

- a. Under the State's Medi-Cal Plan, the TFC service model allows for the delivery of short-term, intensive, highly-coordinated, and individualized SMHS, to children and youth up to age 21 who have complex emotional and mental health needs and who are placed with trained, intensely supervised and supported TFC parents (see MHSUDS INFORMATION NOTICE NO.: 17-021, https://www.dhcs.ca.gov/services/MH/Documents/PPQA%20Pages/MHSUDS_Information_Notice_17-021_TFC_Claiming.pdf; DSS ACIN i-52-16E). The TFC service model is intended for youth who require intensive and frequent mental health support and is a home-based alternative to high-level care in institutional settings such as group homes and STRTPs. The TFC parent is both a Medi-Cal provider and a caregiver who works directly with the child/class member. The approved reimbursement methodology allows MHPs to claim reimbursement from local and/or federal funding sources for a combination of certain SMHS service activities under one TFC per diem rate. To provide TFC, a caregiver must be associated with an FFA that also has a contract with DMH. For purposes of this Agreement, a "TFC parent with a prior relationship" is an individual who has an existing relationship with a particular child and is willing to become a TFC parent and who will work with an FFA that is also a DMH provider for that child. A child receiving TFC should also be receiving ICC and, if medically necessary, IHBS.
- b. The County will take the following measures to facilitate its efforts to make TFC available when medically necessary for class members, including those at risk of placement in, placed in, or being discharged from an STRTP, group home, crisis stabilization unit, temporary shelter care facility or psychiatric inpatient care:

- i. contract with FFAs that are qualified and willing to provide TFC services to class members when medically necessary;
 - ii. request input from the State and the California Institute for Behavioral Health Solutions (“CIBHS”) to determine whether there are additional steps DMH can take to expand the delivery of TFC, including potential cost savings by providing TFC to class members in order to avoid unnecessary placement in STRTPs, group homes, psychiatric hospitalizations and temporary shelter care facilities. The County will thereafter implement what the County considers to be the reasonable recommendations by the State and the CIBHS; and
 - iii. provide additional information to FFAs and their certified resource parents on the ISFC board and care rate and the availability of additional funding for providing TFC services.
 - c. The County will take the following steps to expand the availability and provision of TFC through TFC parents with a prior relationship:
 - i. Connect individuals who have expressed interest in being TFC parents for a particular class member to an appropriate FFA for training and certification;
 - ii. Allow the provision of ICC and IHBS to children living with a prospective TFC parent while the individual is being trained and certified to become a TFC parent;
 - iii. Implement a practice that DCFS, DMH and/or FFA providers invite any prospective TFC parent to CFTMs.
 - d. The County will provide additional training to DCFS case workers and co-located DMH staff on:
 - i. The benefits of, and need for, TFC for class members and the benefits of recruiting and certifying TFC parents with a prior relationship; and

- ii. The options of (i) placing a class member with prospective TFC parents while they are being trained and certified to become a TFC parent and (ii) providing ICC and IHBS to the class member in the prospective TFC parents' home while the prospective TFC parents are being trained and certified.

64. **Agreement #7: Data Reporting.**

- a. The terms below are intended to provide Plaintiffs with sufficient assurances that the County is implementing the terms of this Agreement, but also seek to limit the burdens imposed on the departments during this settlement period.
- b. *Implementation of new practices, instructions and training.* The County will finalize its Work Plans for implementation of the settlement to include estimated dates for the commencement and completion of each task. The Parties, through counsel, will confer by telephone or video conference on a monthly basis and more frequently as needed regarding the County's progress. The Parties agree to invite the Advisory Panel to participate in these calls as its schedule permits. In addition, the County will provide a monthly report to Plaintiffs and the Advisory Panel during the Agreement period that documents and describes the steps the County, through its departments, took to implement the terms of the Agreement. These reports will include, at a minimum, the following information, which shall also be reflected in updates to the Work Plans regarding the specific tasks performed regarding each settlement provision and the date(s) this was completed or performed:
 - i. A description of the work DCFS performed in implementing the Agreement terms;
 - ii. A description of the work DMH performed in implementing the Agreement terms;

- iii. A description of the work performed to create directives, guidelines, training materials, updates, brochures, information notices and other such materials, with copies of the completed materials²;
 - iv. For Agreement terms that require the County to provide training, the reports will include the following for the prior reporting period: (1) when the first training session was conducted; (2) how many training sessions were conducted during the Reporting Period (defined as the period in between the most recent report and the current report); (3) which training sessions were conducted during the Reporting Period; (4) how many people attended the training sessions during the Reporting Period; (5) who the instructors were for the training sessions during the Reporting Period; and (6) the upcoming schedule for additional training sessions.
 - v. For trainings and other Agreement terms that require the County to distribute materials to providers and/or caregivers, the monthly reports will include: (1) which materials were distributed during the Reporting Period and a copy of the materials; (2) who the County sent the materials to during the Reporting Period; and (3) the upcoming schedule for future distributions and information sessions with providers and/or caregivers;
 - vi. The County will provide Plaintiffs with a reasonable opportunity to review and comment on training materials provided to County staff, providers and caregivers to implement the Agreement.
- c. *Data Reporting - General.* The County will prepare a report for Plaintiffs and the Advisory Panel on a monthly basis regarding the following:

² For settlement terms that permit Plaintiffs or other persons to review and comment on materials before they are finalized and disseminated, the County will provide those materials when they are ready for outside review. The County anticipates that these materials could be provided to the required recipients in between reports when they are ready.

- i. The total number of ISFC providers, available ISFC beds and placements in ISFC homes in Los Angeles County for the Reporting Period; and
 - ii. The total number of TFC providers, available TFC parents and placements with TFC parents in Los Angeles County.
- d. *Data Reporting regarding Agreement Nos. 1, 2 and 3.* The County will provide Plaintiffs and the Advisory Panel the following data on a monthly basis during the settlement period, except for subdivision (vi) which will be provided every other month during the settlement period:
 - i. the number of children in DCFS custody in an out of home placement that had an initial CFT and/or follow-up CFT.
 - ii. The number of placement disruptions during the reporting period along with a breakdown of the reasons for placement disruption.
 - iii. The number of psychiatric hospitalizations during the reporting period.
 - iv. The number of children residing in an STRTP during the prior month.
 - v. The number of children in a TSCF at the end of each month.
 - vi. The number of class members who received SMHS during the reporting period, broken down by SMHS service categories, which will include data showing pending and/or approved costs and place of service.³
- e. In its reports to Plaintiffs and the Advisory Panel, the County may provide tentative data that will be subject to revisions upon the County's receipt and analysis of the full data sets for a given period. The County may provide tentative data for information purposes only, and if such data is incomplete, the County shall designate why it believes such data is incomplete, how it is incomplete, and

³ If the data produced pursuant to this subdivision differs from that reported to or by DHCS, the County will identify and provide an explanation of these differences.

shall indicate when such final and complete data will be available. If the County reports tentative data on a given topic, the County will include the final figures in a subsequent report, unless the final data is not available prior to the Expiration Date. The County will not be required to submit any reports after the Expiration Date.