



Joint Compliance Coordinator Office
United States v. Commonwealth of Puerto Rico, et al. Civil No: 99-1435 (SCC)

Exhibit B: Executive Summary of the JCC's March 2022 Semi-Annual Report

I. Introduction

The Federal Monitor's Office submits its seventh Semi-annual Report ("Report") to the Court, the United States, the Commonwealth of Puerto Rico and its Division of Services for Adults with Intellectual Disabilities ("DSPDI") evaluating the Commonwealth's progress or lack thereof, as it relates to the Joint Compliance Action Plan ("JCAP") and the party-stipulated Benchmarks. The present Report covers the period between **July 1, 2021, to December 31, 2021.**

From the outset, the JCC wants to acknowledge that the Commonwealth of Puerto Rico has **significantly progressed** in many Benchmark areas when compared to the JCC's September 2021 Report.

The JCC commends the DSPDI's Compliance Officer, Mr. David Rodríguez Burns, Esq., and the Department of Health's Auxiliary Secretary of Family Health, Integrated Services and Health Promotion, Dr. Marilú Cintrón Casado. Their work and commitment to progress and in improving the lives of participants has had a positive impact on the DSPDI during the period covering the last six months. The JCC also acknowledges the positive contributions of the Governor of Puerto Rico, Hon. Pedro Pierluisi and the Hon. Secretary of Health, Dr. Carlos R. Mellado in their effort of improving the living conditions and work opportunities of the intellectual and developmental disabilities ("ID/DD) population in Puerto Rico. The undersigned expects to recognize the same level of commitment in our next September Semi-annual Report.

Consistent with the directives of the Court, after receiving comments from the Parties, joint party-experts and subject matter experts, the Office of the JCC and its team of experts recommended that various modifications take place in contrast to the last JCC Report.²¹ As part of the new modification, the JCC proposed the creation of a joint six-month work plan to allow all Experts to conduct in-depth reviews and to provide technical assistance to the DSPDI in a number of specific areas that needed immediate attention such as: High Risk Populations and Polypharmacy; Independent Living; De-Institutionalization; and Employment/Job Placement.

Once the above plan is jointly established by all Experts and the DSPDI (within 45 days) and thereafter implemented by the Division, the fruits of the same will be assessed in the JCC 's September Report using individual evaluation criteria per Benchmark, as it was done in previous reports, unless the JCC identifies any deviation or departure from the JCAP mandates that warrants an immediate notification to the Court.

²¹ One of the main reasons for the above modification is because after approximately 23 years of following the same evaluation and assessment methods to ascertain the DSPDI's progress, the JCC felt compelled to recommend the creation of a new six-month work plan that has proven to generate better results in other jurisdictions in the United States.



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II. JCC Progress Evaluations and Recommendations Regarding Non-Outcome Measures²²

Community Placement from Institutions

The JCC is particularly satisfied that the DSPDI has achieved significant progress in the above area and that it is currently on track towards reaching compliance by the next JCC Report if a few recommendations are adopted and implemented.

The JCC highly commends the DSPDI for preparing written Individualized Transition Plans (“ITPs”) for each participant still residing in an institution (since Olmstead²³ became the law of the land), which until recently was a JCAP mandate that was elusive.

As previously mentioned, the JCC will discharge its monitoring duties in relation to this and all areas of the JCAP with the hopes that any deficiencies found in the non-outcome measures can be resolved with the proper technical assistance by the next JCC Report.

Provider Capacity Expansion in the Community

The JCC is satisfied with the improvement that the DSPDI has obtained in this area and believes they should be able to continue to progress over the course of the next six months. Said progress will be reflected when the Office of the JCC assesses compliance levels in the next September Report.

Moreover, the JCC is very satisfied that the DSPDI has developed a system-wide plan to increase the number of community residential providers to meet participants' individualized living units needs within non-congregate community settings. Although there is ample room for improvement in said plan, the above progress represents a constructive foundation and an important step in the right direction to reaching compliance. The results of the DSPDI's progress in expanding congregate community settings within the next months should lead to significant improvements when the JCC assesses the level of compliance that the DSPDI has reached in the relevant Benchmarks.

As explained further in the Report, the JCC recommends that the DSPDI commissions an updated Rate Assessment Study that is tempered to the impact of the record-setting inflation levels and the contracted labor market that we are confronting, which will ultimately guarantee the continuity of all services to participants as mandated by the JCAP.

Integrated Employment and Day Activities

In overall terms, the JCC is not satisfied with the progress that the DSPDI has achieved in this area. Even though we acknowledge that for the first time since the adoption of the JCAP, each Transitional Service

²² For further observations and recommendations on each of the following areas, please see the complete Report.

²³ Olmstead v. L. C., 527 U.S. 581 (1999).



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Center (CTS) has a complete work team from the Vocational Rehabilitation Counseling Services Area ("ASCERV"), among other positive initiatives, the fact remains that with the amount of job opportunities that currently exist in the Island, the DSPDI efforts need additional support from Experts to achieve a proper level of employment that will allow participants to move in the direction of independent living.

The fact that the Commonwealth has confronted a pandemic during the last two years should not serve as an excuse for abandoning support services and modified employment capacitation in regards to the participants' skills and their adaptation the new labor market, as has been mentioned by the JCC in multiple monthly meetings.

As in all areas of the JCAP, the JCC and all Experts are committed to assisting the DSPDI in improving what has historically been a highly deficient area of accomplishment.

Safety and Restraint Issues and Healthcare and Mental Health Care

Since the non-outcome measures in this area require the use of *Therap*, we are seeing significant progress in the use and expansion of the above platform as a clear indication that the DSPDI is laying the foundation to place them in the position of moving towards improved compliance levels which may be reflected in the next JCC September Report.

Even though there is significant work to be done in these areas, it is worth noting that in addition to the above foundation, the DSPDI has taken other positive steps as they pertain to safety and restraint issues by creating for the first time the Incident Committee, the Polypharmacy Committee, and a new "Attention Committee to High-Risk Participants" (CAPAR). For the above initiatives, the JCC commends the current administration's accomplishments.

The DSPDI has also shown improvement in terms of prescription patterns and medication profiles, as recommended in Dr. Roberto Blanco's Polypharmacy Report. Nonetheless, there is still significant work to be done in this important area, as it pertains to the desired results of eradicating overmedication, polypharmacy, and improper psychotropic medications that are being used without a proper diagnosis.

Mortality Review Committee

The JCC is extremely pleased that the Mortality Review Committee ("MRC") is producing the corresponding mortality reports within the JCAP-mandated timeframe of 30 days. However, as elaborated in the Report, there is still room for improvement in regard to the required root-cause analysis to identify any preventable causes of illness and death and recommendations to address outstanding issues which the JCC intends to monitor and work in conjunction with the MRC before the next Report is issued.



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System-Wide Reforms

As previously mentioned, the JCC is pleased with the progress that the DSPDI has achieved in regards to the *Therap* platform as well as other items that are included in the system-wide reforms area of the Benchmarks and the JCAP. Nevertheless, the JCC provided several specific recommendations in the Report with the objective of assisting the Commonwealth in obtaining federal funding that will serve to improve the quality of life and well-being of the participants which will ultimately lead to compliance.

III. JCC Progress Evaluations and Recommendations Regarding Outcome Benchmarks

As previously mentioned, the Parties and the Experts have identified four main areas that the DSPDI will be working on during the six months in order to increase progress and, initially, levels of compliance in the above outcome Benchmarks. This method of addressing challenges in clinical areas has proven successful in other local and state jurisdictions and the JCC is highly optimistic that we can accomplish the same levels of success in the Commonwealth.

Therefore, during the next six months, the DSPDI, with the assistance of the JCC and all Experts, will work primarily on the following areas (without abandoning the work that needs to be done in other clinical areas that will be continually monitored by the JCC):

- High Risk Populations & Polypharmacy;
- Independent Living;
- De-Institutionalization; and
- Employment/Job Placement.

Notwithstanding the above, the following are some areas which relate to those that will be included in the work plan that will be adopted by the Parties and Experts within 45 days which will generate observations and recommendations by the Experts and the JCC to ultimately reach compliance. The JCC will include a particular assessment report regarding the initial six-month plan in our next JCC Report.

i. Medication Prescribing Patterns and Polypharmacy

This is an issue that has been present but unaddressed in the Consent Decree for decades and the JCC is very pleased by the fact that the DSPDI is adopting efficient strategies with the purpose of eradicating said improper medical practices.

The JCC acknowledges that improving medication profiles for participants is a complex task, but also underscores its critical importance to the health and well-being of participants. The undersigned strongly recommends that the DSPDI work closely with the Office of the JCC and all Experts to achieve expeditious progress in regard to polypharmacy and the optimal use of medications, which remains an urgent area that warrants immediate attention.



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ii. **Incident Management and Investigations**

Even though the JCC acknowledges that the DSPDI has initiated establishing guidelines to address incident management and investigations, the JCC is certain that the Division urgently needs to improve the identification, documentation and implementation of an immediate corrective action plan when addressing participant incidents.

Moreover, immediate guidance and capacitation is warranted to allow the corresponding personnel to properly classify incidents, as similar ones appear to be rated in *Therap* as “high” level incidents in some reports, but “low” or “medium” in others with no elaboration and/or explanation about the distinction of said type of incidents which impairs the Division from efficiently and at times immediately developing proper corrective action plans to address the safety and well-being of each participant subject to an incident.

iii. **Provider Transformation and Workforce Development**

The JCC is very concerned by the fact that key personnel are not properly trained and do not have the proper skill set to effectively manage participants with specialized needs. Especially those that are transferring into community homes from institutions. The JCC strongly recommends the DSPDI to work with the JCC and all Experts to immediately improve the capacitation that is warranted for the providers, staff and employees who are the frontline of the Division. The above will help ensure that services and proper services are being offered to participants by knowledgeable and adequately capacitated professionals.

Moreover, the JCC will be closely monitoring the above capacitation process to assist the Commonwealth in substantially improving the above-mentioned deficiencies.

IV. **Conclusion**

The DSPDI has continued to show significant progress in regard to the communication, transparency, collaboration, and furnishing of information to the Office of the JCC. These positive efforts have significantly improved the DSPDI’s progress in relation to the non-outcome measures of the Benchmarks and have created an effective collaborative environment in which a joint six-month work plan will be established within 45 days in order to assist the Commonwealth in confronting the challenges that clinical outcome measures entail. The JCC will be closely monitoring both the creation and implementation of the above work plan and will be particularly observant that the same is conducted within the parameters of the JCAP.

The DSPDI is commended for its nascent efforts to begin tackling the polypharmacy, over-medication, and improper use of psychotropic medications issues among participants, which has been a very serious and longstanding problem that has affected the lives and well-being of many participants. The JCC is optimistic that meaningful reforms will be developed and implemented, with the assistance of all



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Experts, which will finally allow a significant number of participants to enjoy the benefits of healthier and productive lives that may ultimately lead them towards independent living.

Moreover, the JCC is highly optimistic that the new approach of addressing challenging clinical areas will reach levels of improvement that have been in great measure stationary since the inception of the case. The JCC firmly believes that the DSPDI, the Department of Health and the Commonwealth of Puerto Rico cannot expect different results that have impeded their advancement in reaching compliance levels while using the same methodology that has bore little progress. The time has come to implement alternative means to assist the DSPDI in furnishing participants with a level of healthcare that citizens with intellectual disabilities deserve to receive from their respective governments.