



LOUISIANA DEPARTMENT OF HEALTH AGREEMENT
WITH THE U.S. DEPARTMENT OF JUSTICE

September 1, 2020

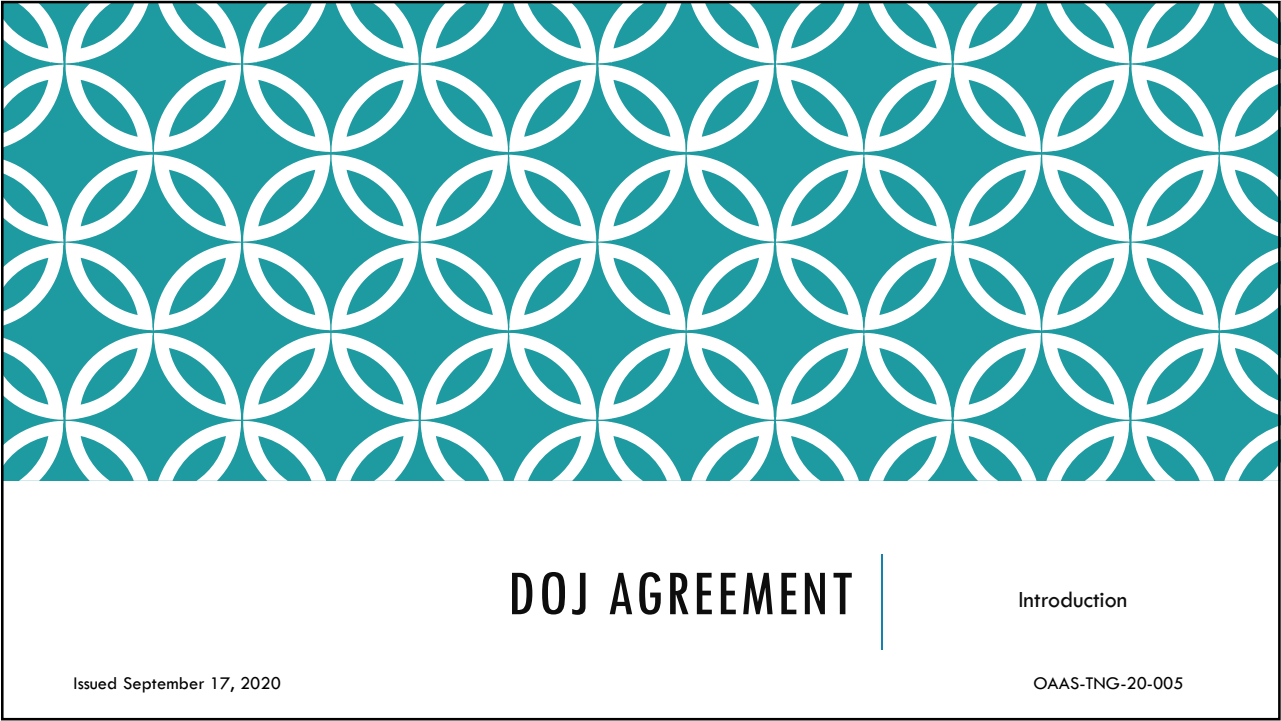
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PURPOSE OF TRAINING

- Introduction to the DOJ Agreement
 - ADA and Olmstead, setting the stage
 - Background
 - Goals
 - Target Population
 - Key Dates
 - Components of Agreement (overview)
 - LDH Offices
- Components of the Agreement
 - Diversion Activities
 - Transition Activities
 - Community Support Services
- DOJ as a Systems Change

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THE ADA AND OLMSTEAD — SETTING THE STAGE

Federal Mandate to Serve Individuals with Disabilities in the Most Integrated Setting Appropriate:

- Congress enacted the ADA in 1990 as a national mandate developed to eliminate discrimination against persons with disabilities. Under Title II of the ADA, public entities are required to “administer services, programs, and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities.” An integrated setting is one that “enables individuals with disabilities to interact with non-disabled persons to the fullest extent possible.”
- In *Olmstead v. L.C.*, the Supreme Court held that public entities are required to provide community-based services to persons with disabilities when (a) such services are appropriate; (b) the affected persons do not oppose community-based treatment; and (c) community-based services can be reasonably accommodated, taking into account the resources available to the entity and the needs of other persons with disabilities.

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BACKGROUND

- In 2014, the United States Department of Justice (“DOJ”) initiated an investigation of the State of Louisiana’s mental health service system to assess compliance with Title II of the Americans with Disabilities Act (“ADA”).
- Following this investigation, in 2016, the DOJ concluded that Louisiana unnecessarily relies on nursing facilities to serve people with serious mental illness instead of serving them in the most integrated setting appropriate to their needs as required by the ADA.
- In June 2018, the State of Louisiana and LDH signed an agreement with the DOJ to help ensure compliance with the ADA, which requires that the State’s services to individuals with mental illness be provided in the most integrated setting appropriate to their needs.
- Louisiana named its program “My Choice Louisiana” to reflect the principles of self-determination and choice referenced in the agreement.

Link to Agreement: <https://www.justice.gov/opa/press-release/file/1068906/download>

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State of Louisiana is working on plans to keep more people with serious mental illnesses out of nursing homes

Baton Rouge, La. (June 7, 2018) – The State of Louisiana and the Louisiana Department of Health announced an agreement with the U.S. Department of Justice to help ensure that people with serious mental illnesses have the opportunity to live in a community setting.

This agreement follows a review by the DOJ in December of 2016 that claimed Louisiana was unnecessarily relying on nursing facilities to serve people with serious mental illness. The Americans with Disabilities Act, or ADA, requires these individuals receive services in the most integrated setting appropriate to their needs. Based on assessments, this may mean in a setting that is less restrictive than a nursing facility such as care in a home or community-based setting.

Department of Justice
Office of Public Affairs

Wednesday, June 6, 2018

Justice Department Reaches Agreement to Resolve Americans with Disabilities Act Investigation of Louisiana’s Use of Nursing Facilities to Serve People with Serious Mental Illness

The Justice Department today announced that it reached an agreement with the Louisiana Department of Health (Louisiana) to resolve its lawsuit alleging that Louisiana fails to serve people with serious mental illness in the most integrated setting appropriate to their needs in violation of the Americans with Disabilities Act (ADA). The Justice Department’s complaint alleges that Louisiana places undue reliance on providing services in institutionalized settings such as nursing facilities, instead of in the community, for people with serious mental illness.

JUNE 6, 2018: AGREEMENT REACHED WITH DOJ AND FILED IN COURT

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AGREEMENT GOALS

“With this Agreement, the Parties intend to achieve the goals of serving individuals with serious mental illness in the most integrated setting appropriate to their needs, to honor the principles of self-determination and choice, and to provide quality services in integrated settings to achieve these goals.”

- 1) Divert individuals with serious mental illness away from inappropriate nursing facility placements by requiring comprehensive evaluations and services designed to enable them to live in community-based settings; and
- 2) Identify people with serious mental illness who have been admitted to nursing facilities but are able to and would like to transition to the community, and provide them with transition and discharge planning and community-based services sufficient to meet their needs.

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TARGET POPULATION

Target population for the DOJ Agreement includes:

- Medicaid-eligible individuals over age 18 with serious mental illness (SMI) currently residing in nursing facilities; or
- Individuals over age 18 with SMI who are referred for a Pre-Admission Screening and Resident Review (PASRR) Level II evaluation of nursing facility placement during the course of the DOJ Agreement, or have been referred within two (2) years prior to the effective date of the Agreement.

Note: Individuals with co-occurring SMI and dementia, where dementia is the primary diagnosis, are excluded. Also, people who live with SMI but are not in the Target Population may request community support services outlined within the Agreement, or be referred for to these services by a provider, family member, guardian, advocate, officer of the court or state agency staff.

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TIMELINE

June 6, 2018	Agreement Implementation
June 6, 2018 – December 6, 2019	Phase One/Initial Implementation Phase
December 6, 2019	Phase Two Implementation Phase, schedule released
December 6, 2020	Phase Three Implementation Phase, schedule released
June 6, 2023	Agreement Termination, if in substantial compliance for one year

COMPONENTS OF THE AGREEMENT

- The Agreement with DOJ is focused on 3 main areas:
- Diversion and the Pre-Admission Screening and Resident Review (PASRR) process
 - Ensuring PASRR processes adhere to federal standards and, further, are effective in ensuring people with SMI are appropriately assessed and authorized for NF placement.
 - Ensuring individuals are able to avoid NF placement by engaging with the appropriate level and type of services while still in the community.
 - Transition Coordination
 - Office of Aging and Adult Services (OAAS) and Office of Behavioral Health (OBH) Transition Coordinators working with individuals throughout the state, helping to move them into the community.
 - Called “My Choice Louisiana”.
 - Community Support Services
 - Ensure network adequacy amongst the behavioral health service array, including the provision of competent/quality services by treatment providers.

LOUISIANA DEPARTMENT OF HEALTH OFFICES

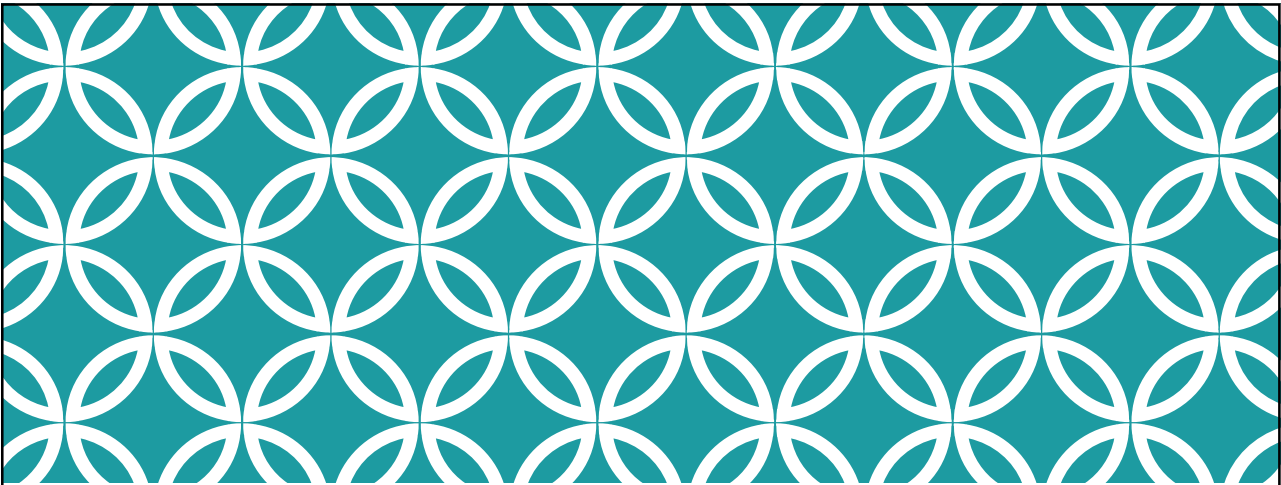
Offices within the Louisiana Department of Health (LDH) which guide implementation of the Agreement’s components:

- **The Office of Aging and Adult Services (OAAS)** – OAAS was formed within the LDH as a healthcare reform initiative, bringing together all of the long-term care programs that serve older adults and people with adult-onset disabilities. OAAS has several programs to help older adults and adults with disabilities maintain independence. These programs offer services in the home or in community-based settings to those who qualify and supports may include hands-on assistance with self-care, home modification, technology and therapies.
- **The Office of Behavioral Health (OBH)** – OBH manages and delivers the services and supports necessary to improve the quality of life for citizens with mental illness and addictive disorders. OBH acts as monitors and subject matter consultants for the Medicaid Healthy Louisiana managed care plans, which manage behavioral health services. It delivers direct care through hospitalization and has oversight of behavioral health community-based treatment programs through the human services districts and authorities.

Additionally, the **Office of Citizens with Developmental Disabilities (OCDD)** provides consultation and service linkage for those individuals transitioning who have a co-occurring intellectual/developmental disability (ID/DD).

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COMPONENTS OF THE AGREEMENT

Diversion
Transition
Community Services

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DIVERSION

LDH developed a diversion plan with activities centered around the following:

- Improvements to Pre-Admission Screening and Resident Review (PASRR) operations which guide admission to Nursing Facilities (NF).
 - Ensuring PASRR processes adhere to federal standards and, further, are effective in ensuring people with SMI are appropriately assessed and authorized for NF placement.
 - Ensuring individuals are able to avoid NF placement by engaging with the appropriate level and type of services while still in the community.
- Rapid engagement with and transition of individuals back into the community from NF.
- Early identification and support for individuals who are at risk of institutionalization.
 - Work underway with consultants and MCOs to identify this and serve this population.

Link to the diversion plan: <https://ldh.la.gov/assets/docs/MyChoice/DiversionPlan.pdf>

PREADMISSION SCREENING RESIDENT REVIEW (PASRR)

PASRR is a federal requirement to help ensure that individuals are not inappropriately placed in nursing facilities (NF) for long term care. Federal rules requires that all NF applicants are evaluated for serious mental illness (SMI) and/or intellectual disability/developmental disability (ID/DD), the applicants are offered placement in the most appropriate setting for their needs (in the community, a nursing facility, or acute care settings), and are provided the services they need in those settings.

PASRR in Louisiana is under the purview of Medicaid and is composed of 2 components:

- Level I Process - Implemented by OAAS
 - Reviews and determines need for NF placement.
 - If during the review there is an indication of potential SMI or an intellectual disability, a referral will be made for a Level II review.
- Level II Process – Implemented by either OCDD (ID/DD) or OBH (SMI)
 - Comprehensive review by a licensed mental health professional to determine whether or not a NF is least restrictive setting and the individual's service needs.
 - Based on review, make a final determination regarding placement and services.

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PREADMISSION SCREENING RESIDENT REVIEW (PASRR)

In order to further ensure improve PASRR operations the following program improvements were implemented:

1. OAAS has implemented changes to the screening process for nursing home admissions by re-ordering the manner in which the LOCET screening tool is conducted during the PASRR Level I process, resulting in the authorization of more temporary stays rather than long-term “permanent” stays.
2. Effective December 1, 2018, the Behavior Pathway was eliminated as a Pathway for meeting Nursing Facility Level of Care.
3. Effective June 6, 2018, OBH began issuing all temporary authorizations, embedding regular re-reviews into PASRR Level II operations in order to ensure needs are annually re-evaluated.
4. OBH has further revised the Level II Evaluation instrument; training and full implementation of this tool occurred early February, 2020.

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RAPID IDENTIFICATION AND TRANSITION

Rapid identification and transition of individuals in the Target Population will enable individuals to avoid the long-term consequences of institutionalization.

- This population includes Medicaid individuals with SMI admitted to a nursing facility on a temporary approval who could be transitioned to the community within the temporary authorization period (90 days, or 100 days for convalescent care) and without a request for ongoing stay in the NF.
- Activities are geared towards the rapid identification of needs and linkage of services geared towards both the individual's stabilization while in the NF and the provision of ongoing treatment when transitioned back into the community.
- The goal is to transition the individual back into their home environment while providing them with the supports necessary to stay there.

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AT RISK POPULATION

OBH and OAAS is working to proactively identify individuals at risk of Nursing Home placement and further developing a plan for ensuring the provision of services and supports to this population.

Generally, the at risk population includes:

- Individuals with serious mental illness, with:
 - Multiple co-occurring medical conditions;
 - Multiple Emergency Department (ED) presentations or Inpatient Hospitalizations; and
 - At risk factors including homelessness.

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TRANSITION COORDINATION

Building off of the successes garnered through OAAS’ implementation of its Money Follows the Person initiative through which individuals were transitioned from NF into the community, a transition coordination initiative was developed as a part of LDH’s response to the DOJ Agreement.

- The program, called My Choice Louisiana, is comprised of a series of activities designed to help people to move or "transition" from an institution into the community with the appropriate supports. These settings include:
 - Home with Family or other supports
 - The individual's own home or apartment as established prior to NF admission
 - The individual's own apartment as established through the transition process
 - Congregate settings, whenever appropriate to the individual’s needs and desires

TRANSITION COORDINATION

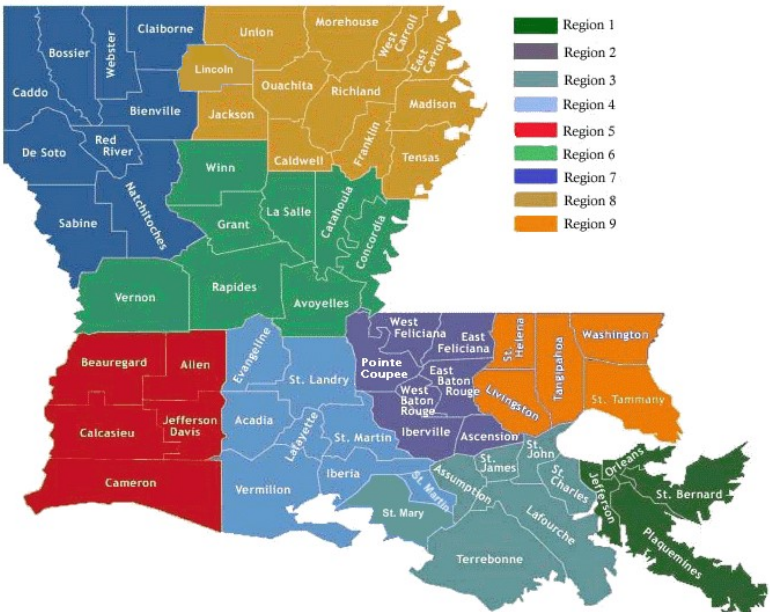
A total of 25 Transition Coordinators have been hired to work on the My Choice Louisiana program. Nine (9) are employed by OBH and sixteen (16) by OAAS. The Transition Coordinators are based in each of the nine OAAS Regions of the State.

- LDH My Choice Louisiana Transition Coordinators have begun to perform face-to-face transition assessments with members of the target population.
- OBH My Choice Louisiana Transition Coordinators will provide transition support for members of the Target Population who do not meet Nursing Facility Level of Care, with the exception of those individuals who have a co-occurring ID/DD condition.
- OCDD shall provide assistance for members of the Target Population who have a co-occurring developmental disability.
- OAAS My Choice Louisiana Transition Coordinators will provide transition support to those members of the Target Population who meet Nursing Facility Level of Care and, as such, are eligible to receive services through the OAAS system of care.

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MY CHOICE REGIONS BY PARISH



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MY CHOICE LOUISIANA TRANSITION PROCESS

The transition process includes face to face engagement with the following activities being undertaken using a person centered process with the individual at the forefront of all planning activities:

- Completion of a person-centered transition assessment
- Development of an individualized transition plan
- Linkages and collaboration with the following partners:
 - Managed Care Organizations
 - Behavioral Health Treatment providers
 - Housing services, as needed
 - Support Coordinators and in home waiver services, as needed
 - Any other organization or entity critical to the individual's transition into the community

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MY CHOICE LOUISIANA POST TRANSITION

Transition Coordinators follow individuals for 365 days post transition into the community.

This includes frequent contact with the individual, their supporters, the MCO, and their service providers to ensure they continue to have the services needed to successfully remain in the community.

This includes formal assessments at the following intervals:

- 7 days
- 30 days
- 90 days
- 180 days
- 365 days

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MY CHOICE BY THE NUMBERS

- **Total Transitions (OAAS & OBH): 127**
- Upon transition, Transition Coordinators provide intensive case management for a minimum period of 1 year post-transition.
 - Contacts include telephonic, face to face and team meetings.
 - At this time, there are approximately 93 individuals receiving intensive case management support.
- To wrap support around individuals during the current pandemic, transition teams have:
 - Moved to a virtual/telephonic approach in the provision of case management,
 - Telephone contacts have increased to meet the needs of individuals, and
 - HCBS providers continue the provision of services, including face to face.
 - TC's have and will continue to provide face to face contacts, with supervisor approval.

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COMMUNITY SUPPORT SERVICES

LDH is evaluating the service system to ensure adequacy of services both in quality, scope, and type of services provided. This includes the following:

- Crisis System
- Assertive Community Treatment (ACT)
- Intensive Community Support Services (ICSS)
 - Community Psychiatric Support and Treatment (CPST), Psychosocial Rehabilitation (PSR), and Crisis Intervention services
- Integrated Day Activities
- Peer Support
- Housing

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CRISIS SERVICES

OBH has undertaken a variety of activities intended to ensure the development of a comprehensive array of crisis services for individuals throughout Louisiana.

These activities include:

- The completion of a Request for Information through which feedback was obtained from individuals from throughout the state on critical components to a comprehensive crisis system of care.
- Development of a proposed crisis framework:
<https://ldh.la.gov/assets/docs/MyChoice/CrisisFramework.pdf>
- Ongoing collaboration with consultants in building this system with the following components expected to be available:
 - Statewide 1-800 Crisis System Access Line
 - Mobile Crisis Services

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INTEGRATED DAY ACTIVITIES

Recognizing how crucial access to meaningful activities are to individuals who have transitioned into the community, OBH has been working with consultants to identify and improve access to day activities for members of the target population.

These include:

- Drop-in Centers
- Employment

The plan for activities include a number actions centered around training on employment as a social determinant of health, enhanced collaborations with partners, and the exploration of potential service enhancements.

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PEER SUPPORT

Peer support is a crucial component of a comprehensive and recovery-oriented system of care. As such, Peer Support is embedded throughout the variety of services within the existing behavioral health system and those services being developed through the DOJ initiative.

Specific activities include:

- Peer Support Request for Information (RFI) to be distributed soon, the focus of which will be training and certification of Peers working throughout the system of care.
- Peer Support as a Medicaid-reimbursable service to be utilized in conjunction with certain provider types.
- Funding was approved in the SFY21 budget for a Peer Support Specialist to work in tandem with Transition Coordinators
 - Additional Peer Support Specialist positions will subsequently be filled throughout the state.

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HOUSING

OAAS has built upon its Permanent Supportive Housing initiative to expand housing options for individuals served through that program, especially those targeted through this DOJ initiative. This includes the following:

2018 NED Tenant Based Vouchers Award - 50 vouchers

- All 50 vouchers under lease. Team PSH met the HUD requirement of 80% of units leased by the end of December, 2019!

2019 NED Tenant Based Vouchers Award – 38 + 27

- HUD released an additional 27 vouchers to Louisiana as part of their immediate response to COVID; 2 tenants housed, 19 in process
- Deadline to lease 80% of the initial 38 extended to October, 2021

My Choice State Rental Assistance Program (RAP):

- 63 housed long-term; 11 pending

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HOUSING NEXT STEPS

- Submitted application to HUD in February for 182 additional 811 Project-Based Rental Assistance (PRA) vouchers.
- Working with Louisiana Housing Corporation to increase requirements for PSH units in the 2021 Qualified Allocation Plan for the Low Income Housing Tax Credit program.

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CLOSING

LDH Agreement with DOJ is an Opportunity for Systems Change

It is expected that the system improvements implemented as a result of the DOJ Agreement will have lasting changes to the overall behavioral health system.

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QUESTIONS?

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For additional information about the *My Choice Louisiana* program, visit LDH's website at: <https://ldh.la.gov/MyChoice>

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