

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
 COMMONWEALTH OF VIRGINIA,)
)
 Defendant,)
)
 and)
)
 PEGGY WOOD, et al.,)
)
 Intervenor-Defendants.)
 _____)

CIVIL ACTION NO:
3:12cv59-JAG

**UNITED STATES’ WITHDRAWAL OF MOTION FOR A COURT-ORDERED
SCHEDULE AND JOINT SUBMISSION OF SCHEDULES**

Pending before this Court is the United States’ Statement of Issues and Motion for Court-Ordered Schedule, ECF No. 186 (“Motion for Schedule”). In that motion, the United States described its concerns about delays in the implementation of the Settlement Agreement, ECF No. 112, August 23, 2012 (“Agreement”), including delays in developing a functional crisis system, integrated day and supported employment programs, and integrated housing. *Id.* at 1-2. The United States’ concerns were amplified by delays in the Commonwealth of Virginia’s restructuring of its Home and Community-Based Services Waivers (“HCBS Waivers”). Although not required by the Agreement, this restructuring is a strategy presented by the Commonwealth to achieve compliance with many of the Agreement’s provisions. *Defendant’s Response to the United States’ and Intervenors’ Statements of Issues*

and in Opposition to the United States' Motion for Court-Ordered Schedule, ECF No. 191, at 3. Consequently, the United States requested in the motion that the Court require the Commonwealth to provide a schedule setting out reasonable time frames for implementation of the Agreement's provisions, consistent with the Agreement's underlying requirements. *Motion for Schedule* at 3, 29.

At a public status conference on October 23, 2015, addressing the implementation of the Agreement, the Court set a hearing for the Motion for Schedule but encouraged the United States and the Commonwealth to address the issues underlying the motion and determine whether further proceedings were necessary.

Since the October hearing, the Commonwealth and the United States have held numerous discussions and have reached agreement on specific implementation schedules, including time frames, interim steps, and performance indicators, for four discrete areas of the Agreement that the United States highlighted in its Motion for Schedule: Supported Employment, Community Engagement (i.e., "Integrated Day"), Crisis Services for Adults, and Crisis Services for Children. The Commonwealth and the United States jointly submit these schedules as Attachment A hereto. The Parties hereto do not intend for these schedules to be modifications or addenda to the Agreement, or entered as court orders at this time. However, the Parties agree that, if implemented, these schedules should significantly facilitate implementation of the Agreement itself.

Moreover, the Parties have committed to continue to negotiate schedules for the remaining areas identified in the United States' motion, including: integrated housing options, children in nursing facilities and large intermediate care facilities, individuals with complex

medical needs, and quality and risk management. The Parties intend to submit similar implementation schedules for those areas during the next several months.

In addition, since the October hearing, the Commonwealth has submitted a budget to the General Assembly that, if approved, should enable the Commonwealth to proceed with the restructuring of its HCBS Waivers to help continue efforts to implement the Agreement.

In light of the foregoing, the United States submits that proceedings at this time on the United States' pending Motion for Schedule are not necessary, and the United States herewith withdraws its Motion for Schedule without prejudice. However, the United States may renew its motion if anticipated progress fails to occur.

Respectfully submitted,

Dated: January 8, 2015

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CERTIFICATE OF SERVICE

I hereby certify that on the 8th day of January, 2016, I will electronically file the foregoing UNITED STATES' WITHDRAWAL OF MOTION FOR A COURT-ORDERED SCHEDULE AND JOINT SUBMISSION OF SCHEDULES with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF) to the following:

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