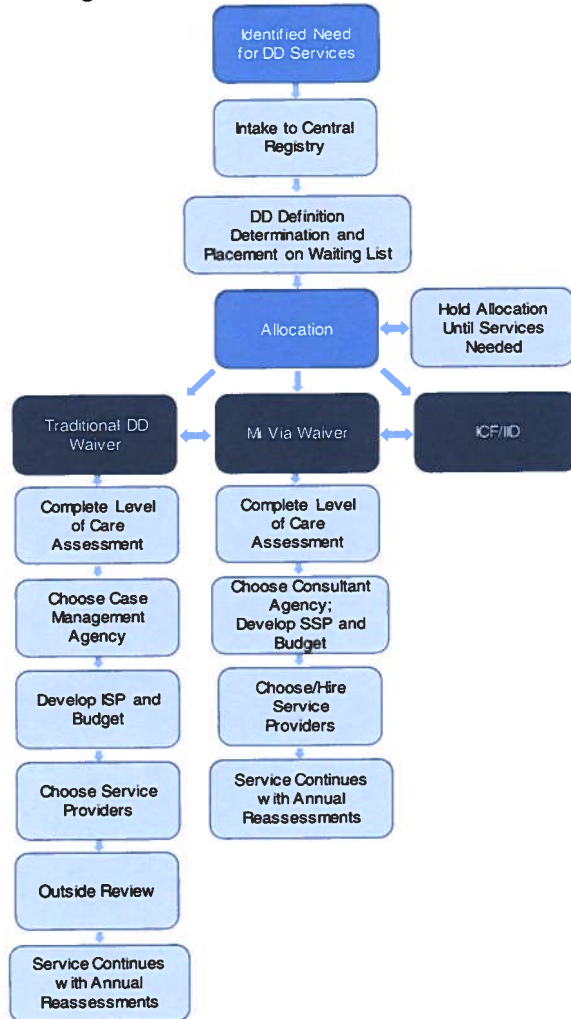


LFC Evaluation of the Developmental Disabilities and Mi Via Waivers

Presentation to the Legislative Health and Human
Services Committee

August 8, 2018

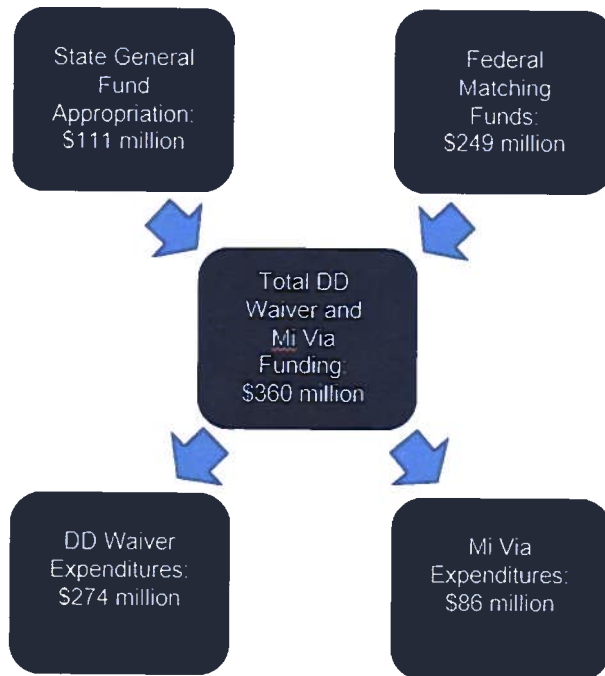
Figure 1. DD and Mi Via Waiver Process



DD and Mi Via Waiver Process

- Individuals are placed on the waiting list when they are determined to be eligible
- When funding is available for allocation, an individual may choose between the traditional DD Waiver, the Mi Via Waiver, or an Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID)

Figure 2. FY17 Funding for the DD and Mi Via Waivers



Source: 2016 GAA, HSD April 2018 Medicaid Projection, and HSD data for 2017 CMS-372 Report

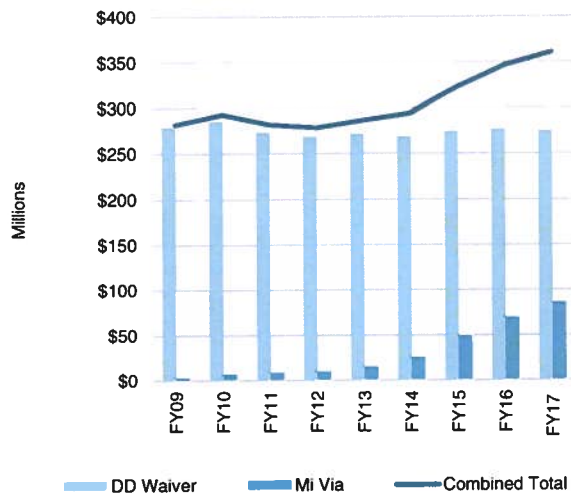
DD and Mi Via Waiver Funding

- Both waivers are funded through Medicaid at the state's FMAP
- DDSD receives an appropriation for the state matching funds, which are then transferred to HSD on a monthly basis

Costs and Enrollment

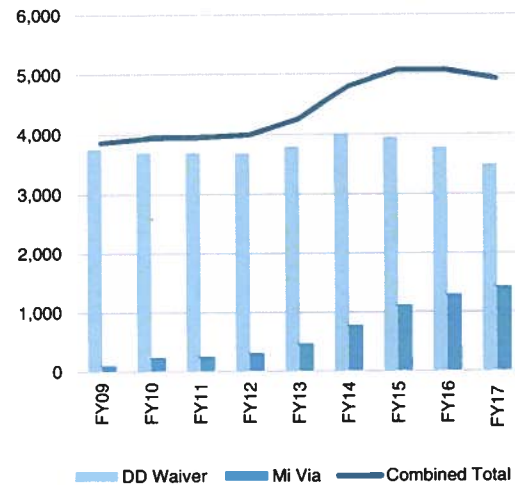
Total developmental disability program costs grew 28% from FY09 to FY17

**Chart 1. DD Waiver and Mi Via Expenditures
FY09-FY17**



Note: FY09 Mi Via total includes FY07-FY09

**Chart 2. DD Waiver and Mi Via Enrollment
FY09-FY17**



Note: FY09 Mi Via total includes FY07-FY09

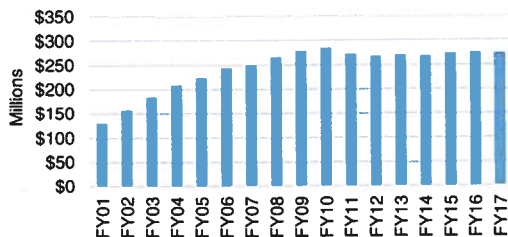
Summary of Key Findings

- The DD Waiver is costing more per client, even as enrollment declines
- The Mi Via Waiver is driving cost increases in the state's DD programs
- Other states are more cost effective in delivering services
- DOH is improving its management of the waiting list, but needs to do more to predict future needs and service capacity
- The current assessment and budget allocation process lacks standardization and contributes to rising annual client budgets
- Improved oversight is necessary to mitigate risk to waiver participants and public funds
- Data collection can improve performance management and client outcomes
- The state has made progress on resolving the Jackson lawsuit, which remains a major cost driver

Finances

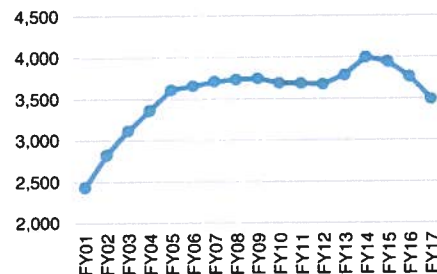
The Traditional DD Waiver is Costing More Per Client, Even as Enrollment Declines

**Chart 5. DD Waiver Total Expenditures
FY01-FY17**



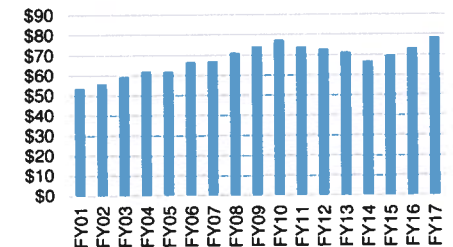
Source: CMS-372 Reports and HSD

**Chart 7. DD Waiver Enrollment
FY01-FY17**



Source: CMS-372 Reports and HSD

**Chart 8. Average Cost per Client
FY01-FY17
(in thousands)**

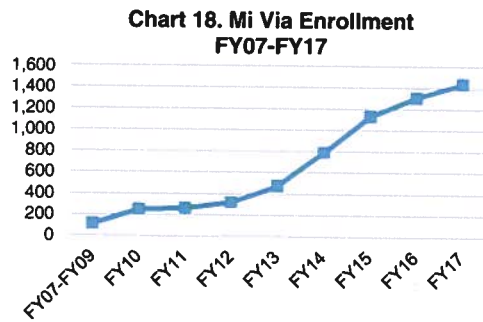


Source: LFC Analysis of CMS-372 Reports and HSD Data

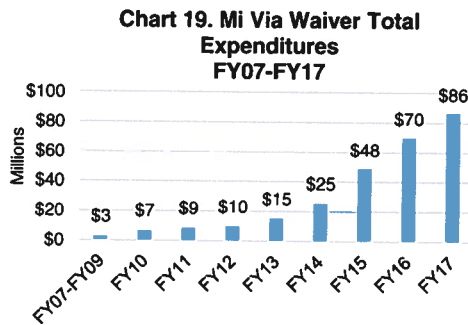
- Contributing factors include need for higher acuity supported living services and increased therapy (physical, occupational, and speech/language).
- If costs continue at the current pace, the state stands to lose waiver eligibility in the next 10 years, as the waiver will cost more than institutional care, violating a critical federal requirement.

Finances

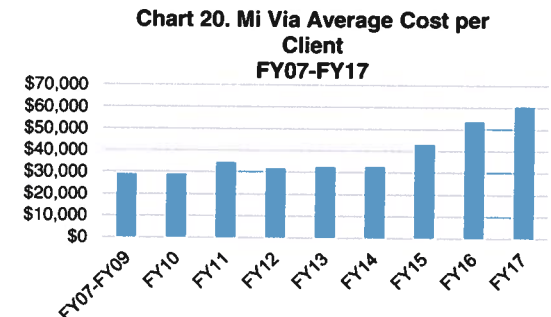
Mi Via, the Self-Directed Waiver, is Driving Cost Increases of the State's Developmental Disability Programs



Source: CMS-372



Source: CMS-372



Source: CMS-372

- Mi Via has continually grown since 2007, but enrollment and costs grew rapidly after 2014, in part driven by 174 clients moving over from the DD Waiver.
- Clients new to Mi Via in 2017 will likely hit the annual spending cap (\$72,710) by their third year in waiver services.
- Contributing factors include increasing average client-negotiated service rates and increased spending on living and community-base supports.

Finances

Other States Deliver More Cost Effective Services for Individuals with Developmental Disabilities

Strategies include:

- Offering therapy services through the Medicaid State Plan instead of the 1915(c) waiver
- Reviewing cost effectiveness of individual services
- Analyzing needs and service utilization of high-cost clients
- Leveraging Community First Choice under the ACA, which offers 6% additional federal match for home- and community-based attendant services offered through the Medicaid State Plan
- Assigning priority ratings to the waitlist based on established criteria such as need

Addressing the Waitlist

DOH Has Improved Management of the DD Waiver Waiting List, but Needs to Do More to Predict Future Needs and Service Capacity

Figure 3. Flow of Individuals on DDSD Central Registry

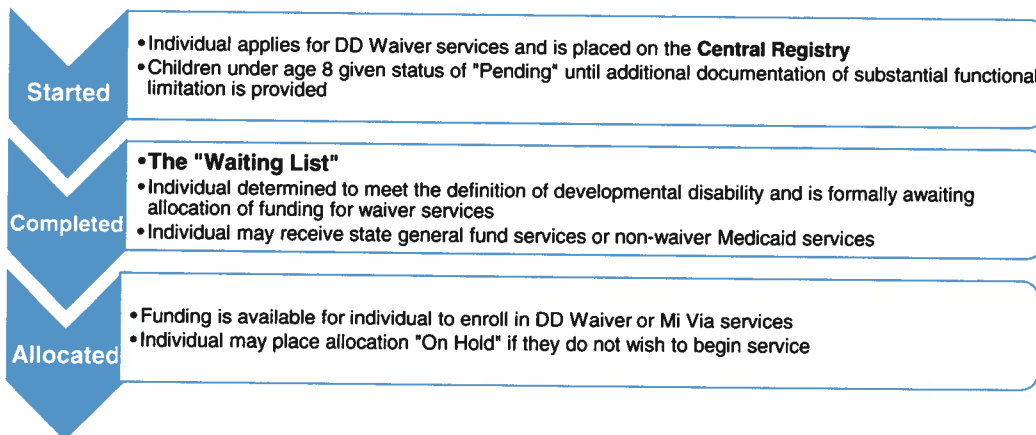
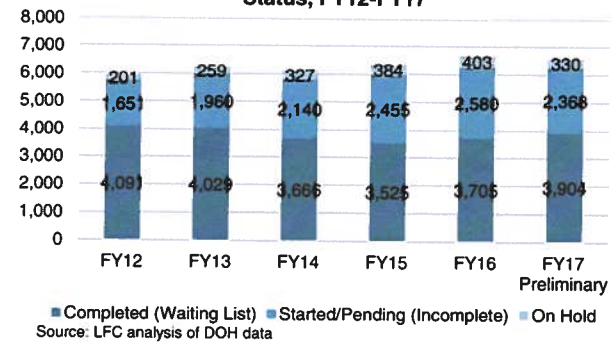


Chart 28. Applicants for DD Waiver Services by Status, FY12-FY17



As of FY17, 3,904 individuals were on the waitlist as eligible for services and awaiting allocation.

Addressing the Waitlist

DOH Has Improved Management of the DD Waiver Waiting List, but Needs to Do More to Predict Future Needs and Service Capacity

- DDSD has successfully cleaned up the Central Registry, reducing the total by 1,870 individuals total between FY16 and FY17 for reasons such as not meeting the clinical definition for waiver eligibility or not completing the registration process.
- Reducing the waitlist will require a significant Legislative funding commitment.
- Provider availability and capacity issues will need to be addressed, as many rural and frontier counties have limited or no access to some DD services.
- Provider rate disparities between the DD Waiver and Mi Via could induce providers to serve clients in one waiver over the other.

Table 6. General Fund Cost Estimates for Reducing the DD Waiver Service Waitlist (dollars in thousands)

Number of Clients Removed from Waitlist	Estimated First Waiver Year Costs	Second Waiver Year Costs
50	\$187.0	\$1,635.5
100	\$375.0	\$3,270.9
200	\$750.0	\$6,541.8
500	\$1,875.0	\$16,354.5
1000	\$3,750.0	\$32,709.0
4000	\$15,000.0	\$130,836.0

Note: First year cost estimates based on GF cost of \$3,750 per client used in April 2018 Medicaid Projections. Full service cost assessed using distribution of 2017 DD Waiver client budgets.

Source: LFC Analysis of HSD Data

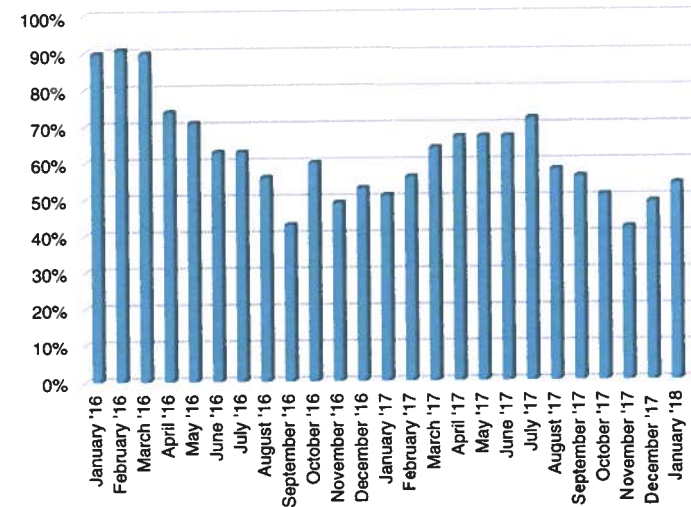
Assessment and Budget Allocation

- From 2012 to 2015, DDSD used the Supports Intensity Scale (SIS)
- The SIS is a validated, evidence-based assessment
- DDSD implemented the SIS in ways it was not designed to be used
- Some individuals' services were reduced with insufficient due process for contesting SIS determinations
- Led to the Waldrop lawsuit, settled in 2015
- SIS replaced by nonstandardized assessment process and Outside Review

Assessment and Budget Allocation

- DOH lacks a valid and reliable assessment and budget allocation process to determine services for people on the DD Waiver
- The Outside Review (OR) results in high numbers of requests for additional information from providers or case managers
- Four different versions of service criteria over the past two years

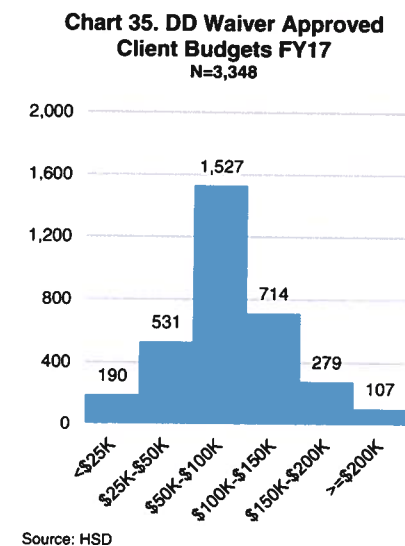
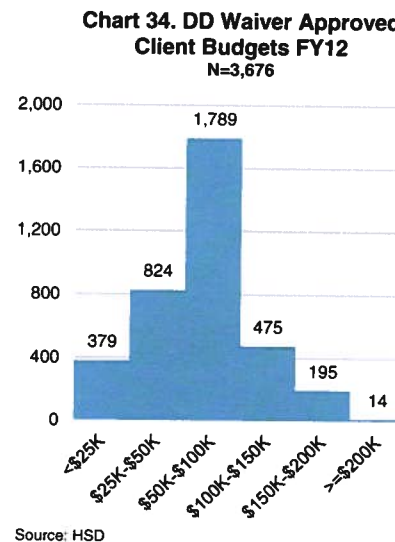
Chart 32. Percent of Reviews Resulting in Request for Information



Source: UNM Continuum of Care CORE OR

Assessment and Budget Allocation

- Lack of a strong assessment and budget allocation tool may contribute to higher than necessary costs.
- Average cost per client dropped from \$77 thousand in FY10 to \$67 thousand in FY14 during use of the SIS, and has increased faster since the SIS was discontinued.
- Budget distributions have shifted toward the higher end.



Oversight of Services

DEVELOPMENTAL DISABILITIES SUPPORTS DIVISION (DDSD)

- Issues standards for providers, case managers, and Mi Via consultants
- Provides training and technical assistance

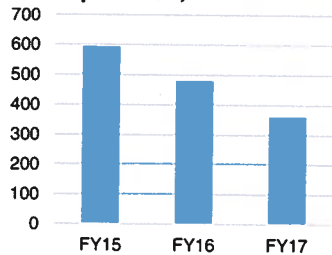
DIVISION OF HEALTH IMPROVEMENT (DHI)

- Oversees provider compliance with state and federal regulations
- Investigates allegations of abuse, neglect, and exploitation (ANE)

Oversight of Services

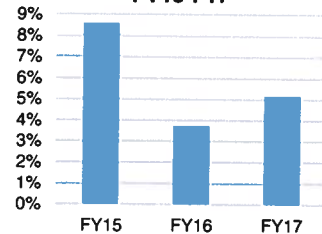
- Cases of ANE are decreasing, but the percentage of clients who were victims grew in FY17.
- DHI is not closing cases within prescribed timeframes.

Chart 36. Number of Substantiated Cases of Abuse, Neglect, and Exploitation, FY15-F17



Source: DOH

Chart 37. Percent of Waiver Clients Who Were Victims of Abuse, Neglect, and Exploitation, FY15-F17



Note: Percent calculated by dividing number of consumers abused by number of people enrolled in DD or MV.
Source: DOH

Table 9. Average Days from Assignment to Closure and Completion by Year, FY16 & FY17

	Investigations Completed	Cases Closed
FY16	63	120
FY17	54	87

Note: Cases should be completed in 45 and closed in 62 days.
Source: DOH

Oversight of Services

- Mi Via participants may designate an employer of record (EOR) to hire, pay, and manage service providers.
- HSD's third party fiscal agent (Conduent) processes service invoices and payments upon receipt of appropriate documentation from the EOR.
- DDS conducts little oversight of Mi Via EORs to ensure participant services are being managed appropriately.
- New Mexico does not meet a number of national best practices for self-direction, including determination of provider quality.

Data and Performance Management

- DOH's strategic plan contains no priorities or goals specific to developmental disability services.
- DDSD is using Key Performance Indicators (KPI) to improve its tracking of provider performance, but can do more to focus on client outcomes.
- DDSD's Accountability in Government Act (AGA) performance measures offer limited information on client outcomes.

Table 13. Current DDSD Performance Measures

Type of Measure	Measure	FY15 Actual	FY16 Actual	FY17 Actual
Efficiency	Percent of DD Waiver applicants with a service plan in place within 90 days of eligibility determination	91 %	53%	73.6%
Explanatory	Number of individuals receiving DD Waiver services	4,610	4,660	4,691
Explanatory	Number of individuals on DD Waiver waiting list (central registry)	6,365	6,526	6,529
Outcome	Abuse rate for DD and Mi Via Waiver clients	New	New	7.2%
Outcome	Percent of Individuals on DD Waiver who receive employment supports	New for FY18		

Source: LFC Volume 2

Data and Performance Management

- Expanded outcome and quality measures tied to key system goals can aid legislative oversight of DD Waiver programs.

Table 14. Potential Performance Measures

Desired Outcome	Potential Performance Measure
Strong community inclusion	Average length of time in job development before employment
	Percent of individuals employed who included employment as an ISP goal
	Percent of Customized Community Supports conducted in the community
Individuals on the waivers are safe and healthy	Rate of Abuse, Neglect, and Exploitation*
	Percent of Abuse, Neglect and Exploitation investigations completed on time
	Rate of General Event Reporting
	Rate of hospitalizations
	Percent individuals on the waivers who experience improved health outcomes in the areas of diabetes, substance abuse and obesity
Individuals reside in the least restrictive environment for their needs	Percent of individuals living at home with customized in home supports
Individuals receive needed services	Percent of individuals on waiting list receiving Medicaid or SGF
	Average days from allocation to receipt of services
Individuals progress towards personalized goals	Percent of ISP goals met

*Current performance measure

Data and Performance Management

- Supported employment is one area with strong opportunities for data collection tied to client inclusion in the community.

Table 15. Percent of Participants in Integrated Employment, FY15

State	Percentage
OK	60%
NM	30%
CO	28%
UT	23%
AZ	20%
TX	9%
US Average*	22%

* Excludes six states for which data was not reported

Source: Institute for Community Inclusion, University of Massachusetts Boston

- Incorporating additional information about participants' abilities and desire to work can help DDS understand the extent to which individuals in supported employment are achieving optimal outcomes.

Jackson Lawsuit

- Originally filed in 1987 over violations of federal law in New Mexico's institutions for individuals with developmental disabilities
- Last institution closed in 1997
- NM continues to operate under a series of court orders requiring compliance with over 300 obligations
- 10th Circuit Court of Appeals ruled in 2018 that lower court must re-hear case to determine:
 1. If there are ongoing violations of federal law;
 2. If the state has a durable remedy in place; and
 3. If there are significant changed circumstances to warrant continued court oversight.

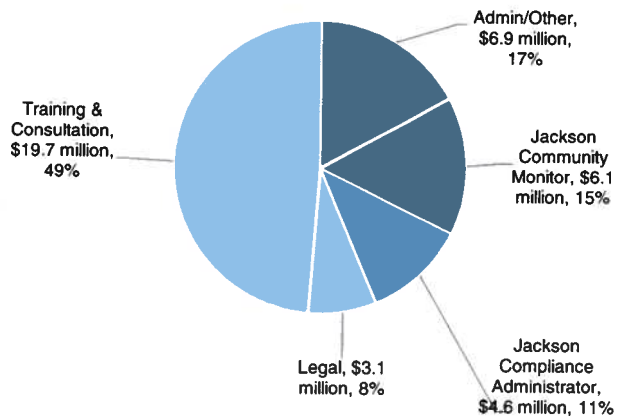
Table 16. Summary of Outstanding Jackson Obligations

Issue Area	Number of Items Remaining
Health	52
Safety	63
Supported Employment	67
Integrated and Meaningful ISPs	19
Correction of ISP Deficiencies	9
Day Services	17
Vocational Rehabilitation	8
Continuous Improvement	10
Items Potentially in Dispute	
Quality Enhancement	99
Incident Management	25
Supported Employment	17
Case Management	19

Note: Obligations based on three separate court documents and agreements: The Joint Stipulation on Disengagement and Plan of Action (1997), Appendix A (2005), and the Remedial Plan/Revised Table IV (2015). Source: DOH

Jackson Lawsuit

Chart 40. Breakdown of DOH Spending Related to Jackson Litigation, FY13-FY18
(Total: \$40.3 million)



Source: LFC analysis of DOH data

Figure 4. Scenario If Jackson Compliance Costs Were Redirected to Services
(Based on FY17 Spending)



Source: LFC analysis of DOH and CMS-372 data

Jackson Lawsuit

- Compliance with ongoing requirements and Individual Quality Review (IQR) process have added administrative complexity for DDS and providers.
- DOH plans to bring the IQR into DHI, but its ability to leverage this opportunity for enhanced performance monitoring is complicated.
 - Court-appointed Community monitor retains oversight
 - IQR methodology largely driven by court mandates
 - Data not necessarily comparable to other information gathered by DOH

Key Recommendations

DOH, in consultation with LFC and LHHS, should:

- Create a five-year plan to reduce the waiting list by 25 percent to 50 percent. This plan should then be submitted to the Legislature with annual DOH budget submissions, detailing progress toward the stated goal, and any changes in funding requirements year-to-year to support these new clients. Should DOH demonstrate cost containment in the DD and Mi Via waivers, the Legislature should consider reappropriating these savings to increase the rate the waitlist will be reduced in the five-year plan.

Key Recommendations

DOH, with data provided by HSD, should:

- Analyze and report annually to the Legislature on clients with highest costs on the DD and Mi Via Waivers, looking at how their service needs and costs change over time.
- Examine cost drivers within the DD and Mi Via Waivers, identify patterns leading to these cost increases and address issues programmatically.

Key Recommendations

DOH should:

- Model other state cost containment practices.
- Analyze the feasibility of instituting the Community First Choice option per the ACA.
- Implement a standardized, validated, and evidence-based assessment and allocation tool while incorporating appropriate safeguards for client rights.
- Establish more efficient and effective protocols and ensure staffing is adequate to complete and close ANE cases in a timely manner.
- Audit a sample of Mi Via employers of record annually to ensure client needs are met.
- Use Key Performance Indicators to examine more client-centered outcome data and work with LFC and DFA to create performance measures focused on client outcomes and provider quality.
- Provide triannual reports to the Legislature on the status of disengagement from outstanding obligations of the Jackson case.

