

KEVIN S. SETTLEMENT COMMITMENTS

Children, Youth and Families Department

Barbara J. Vigil, Cabinet Secretary

Beth Gillia, Deputy Cabinet Secretary

Emily Martin, Director, Protective Services Division

Human Services Department

Angela Medrano, Deputy Cabinet Secretary

Bryce Pittenger, CEO - Behavioral Health Collaborative



Senate Courts,
Corrections and Justice
Committee
November 21, 2022

What is the Kevin S. Settlement?

A 2020 agreement between the State (CYFD and HSD) and the Plaintiffs (14 children in foster care, Native American Disability Law Center, and Disability Rights NM) resolving a federal civil rights lawsuit filed in 2018.

The lawsuit claimed that the State violated the rights of children in state custody by:

- Not having enough caseworkers, foster parents, and mental health professionals to ensure stable and supportive placements;
- Not screening for trauma and not providing appropriate, adequate, and coordinated behavioral health services;
- Not consistently monitoring children's health and treatment;
- Not facilitating collaboration between those responsible for providing care and services, ensuring an individualized planning process for each child, and not focusing on sustaining relationships; and
- Not complying with the letter and spirit of the Indian Child Welfare Act.

What is the Kevin S. Settlement?

In the Settlement Agreement, the State committed to a variety of actions and outcomes in 4 areas:

- **Trauma-Responsive System of Care** (Appendix A)
- **Least Restrictive and Appropriate Placements** (Appendix B)
- **The Indian Child Welfare Act** (Appendix C)
- **Behavioral Health Services** (Appendix D)

Three Co-Neutrals monitor our progress and fulfillment of our Commitments:

- Pamela Hyde, Hyde & Associates Policy and Practice Consulting
- Judith Meltzer, Center for the Study of Social Policy
- Kevin Ryan, Public Catalyst

Kevin S. Deliverable Types within the Final Settlement Agreement

- **Implementation Targets** are steps that the State will take to fulfill the terms of this Agreement and to reach the Target Outcomes.
- **Target Outcomes** are specific achievements that the State agrees to meet to fulfill the terms of this Agreement.
- As of **September 2022**:
 - 18 Implementation Targets are approved
 - 19 Target Outcomes are approved

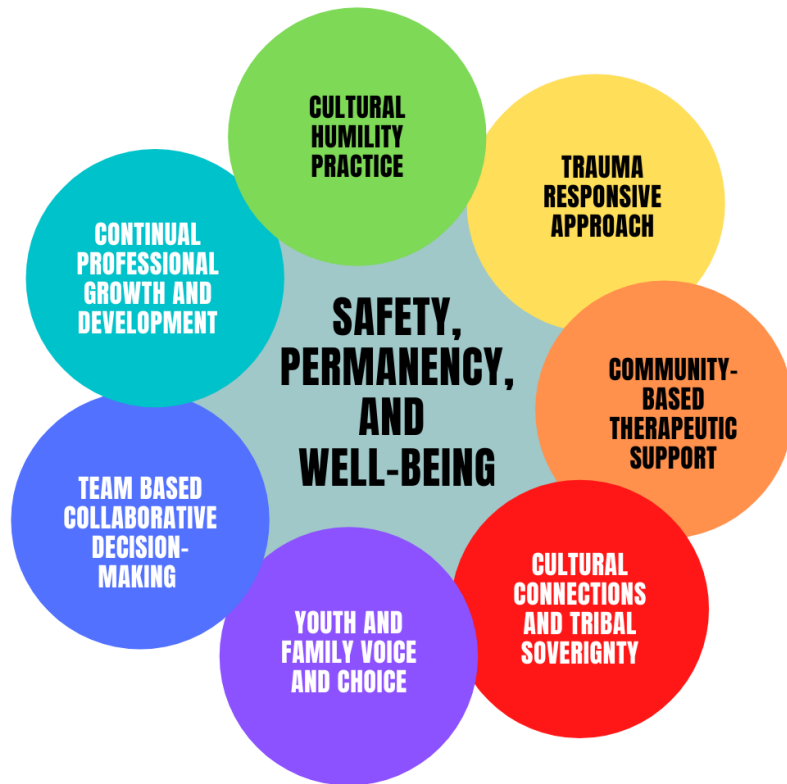
Appendix A Overview

CYFD and HSD will build and support a trauma-responsive system of care for all children in state custody.

- ❖ A trauma-responsive system of care is one that identifies, recognizes, and understands the effects of trauma and provides sufficient services and supports to ameliorate trauma, including secondary trauma.
- ❖ A trauma-responsive system of care must also support and serve other stakeholders, including families and people who work for or on behalf of children, youth, and families.

Appendix A:

Accomplishments



- Approval of the CAT (Crisis Assessment Tool) - utilized between the *ex parte* custody order and the 10-day hearing, that identifies the acute needs of the Child in State Custody (CISC)
- Approval of the CANS (Child and Adolescent Needs and Strengths), a 'communametric' validated tool that identities needs and strengths across domains.
 - Full implementation December 2021
 - Over 950 CANS completed by CYFD workers, with an additional 1180 completed by the CBHCs. Over 500 CYFD workers trained
 - Managed Care Orgs trained and training their Care Coordinators
- Approval of Individualized Planning Process (IPP) which is team based decision making, child and family teams (Child Welfare and Policy Group)
 - Full Implementation of IPP December 2022
- Progress on the Trauma Responsive Training Plan
 - Trainings and coaching have begun internally
- Progress on Quality Assurance, Improvement, and Evaluation Plan (QAIEP)
 - Began trial implementation October 2022 using qualitative and quantitative approach

Appendix B Overview

Appropriate Placements in the Least Restrictive Settings



Goals:

- ❖ *Every Child in State Custody will be in a family home, within their community in New Mexico.*
 - *Specific Exceptions*
 - *Individualized Planning and Teaming*

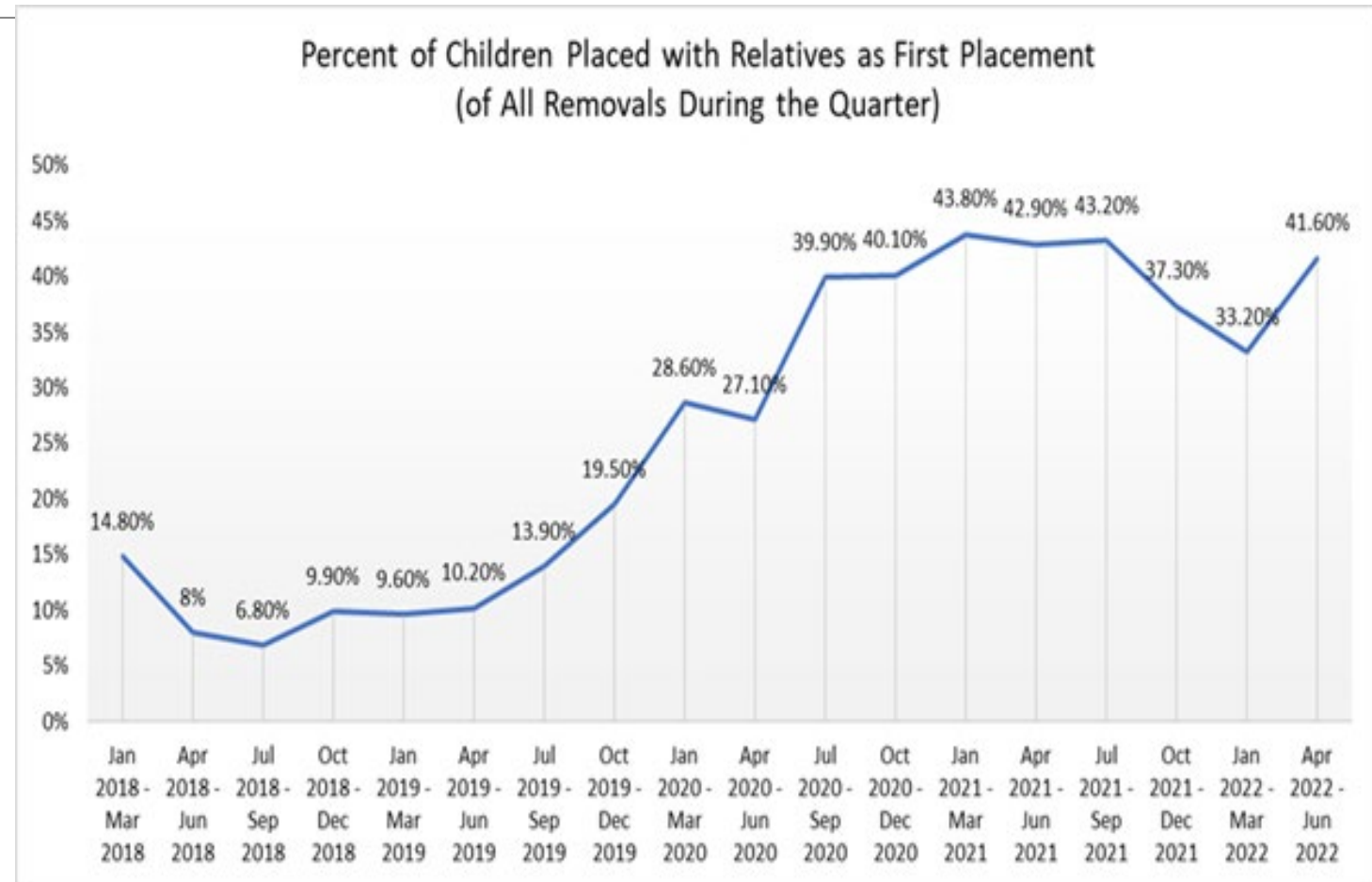
- ❖ *Create and Implement a Workforce Development*
 - *Healthy and well supported workforce*

Achievements

Recruitment and Retention of Resource Families

Implementation Targets 1.1; 2.1; 3.1; 3.2

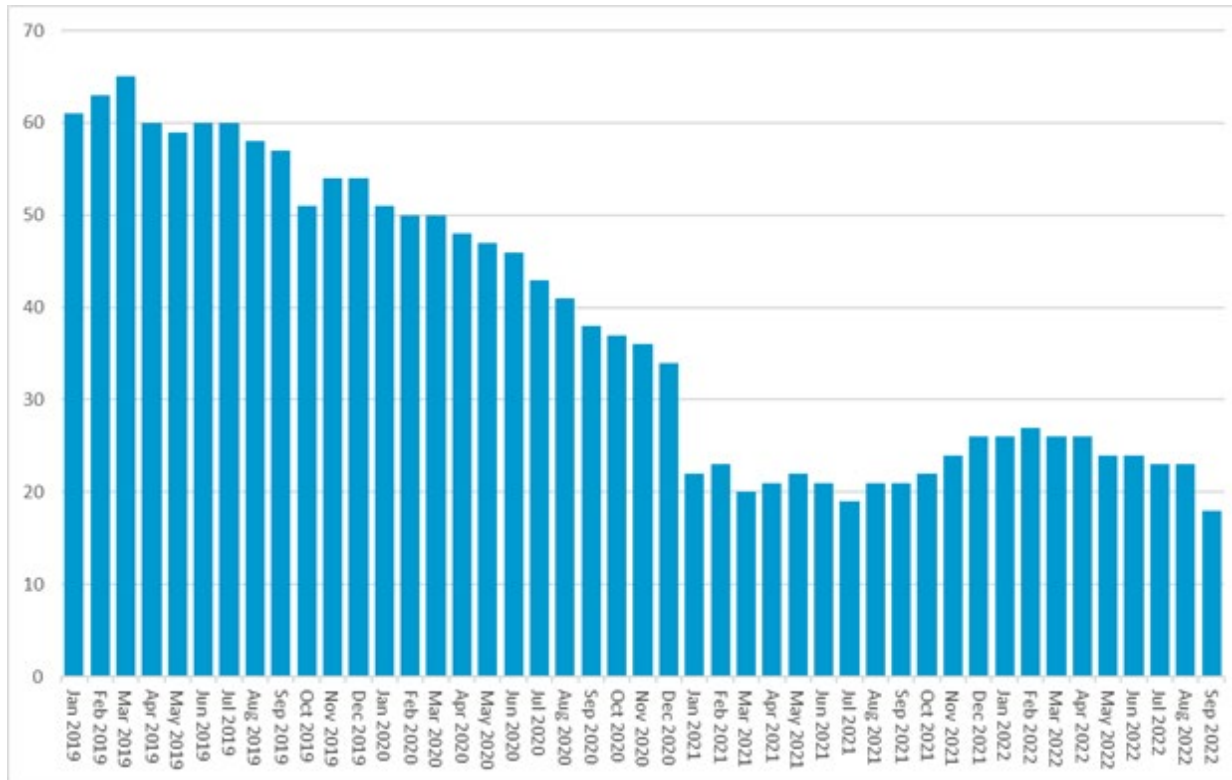
- Recruitment and Retention Plan, approved by Co-Neutrals in December 2021
 - *New Pre-Service and Ongoing Training for Resource Families*
 - *Peer to Peer Warmline*
 - *Resource Parent Handbook*
 - *Created Resource Parent and Youth Grievance Procedure, including Retaliation Policy*
 - *Placement with Relatives and Fictive Kin*



Reduction in Congregate Care Placements

2019 - 2022

Out of State Congregate Care Facilities



2018 - 2022

In-State and Out of State Congregate Care Facilities*

August 2018: 277 Children In State Custody in Congregate Care Settings

August 2020: 145 Children In State Custody in Congregate Care Settings

August 2022: 88 Children In State Custody in Congregate Care Settings

Over a 4 year period CYFD Protective Services has decreased the number of Children in Congregate Facilities by **61%**

** Residential Treatment Facilities, Group and Community Homes*

Office/Hotel Stays

Targeted Outcome 1.1:
Only in Extraordinary
Circumstances to protect the
safety and security of the
child.

Point in Time Data:

March 2021:

- ❖ 20 Youth Entered an Office Stay
 - 25 start dates

March 2022:

- ❖ 4 Youth Entered an Office Stay
 - ❖ 4 start dates

Identifying and Addressing Complicating Factors that result in Office Stays:



CYFD Workforce Development Plan

Targeted Outcome B 10.2

Current Status:

- Workforce Development Plan has not yet been approved by the Co-Neutrals
- Partnered with national expert to create robust plan

Sections include:

- Staff survey results
- Caseload standards and workforce needs
- Recruitment
- Hiring
- Training and graduated caseloads
- Retention
- Leadership Development
- Compensation

Appendix C Overview: Indian Child Welfare

✓ Full-time staff person responsible for culturally responsive services

✓ Out of Preferred Placement Staffings and Procedures

✓ Dedicated ICWA Unit in Metro Region

✓ State ICWA

- Design & implement an ICWA training plan
- Maintain cultural connections for NA children in state custody:
- Plan to increase recruitment & retention of Native Resource Families

Appendix C

Capacity Building



CURRENT ACHIEVEMENTS

- Established Office of Tribal Affairs in statute
- Hired OTA Director, PS and BH Tribal Coordinators, and Administrative Consultant
- Designated Assistant General Counsel to focus exclusively on tribal matters
- Governor appointed Special Projects Coordinator for Tribal Affairs
- Designated ICWA Unit in Bernalillo County

NEXT STEPS

Hiring in FY 23: JJS Tribal Coordinator & Indian Child Welfare Training Coordinator/Coach

Seeking FY24 budget for:

- Financial Analyst A
- ICWA/IFPA Quality Assurance Manager
- Native American Resource Parent Coordinator
- Support of tribes' partnership in CYFD policy and training development

Appendix C

IT 1.1 - State ICWA

CURRENT ACHIEVEMENTS

- Indian Family Protection Act (IFPA) passed in 2022 legislative session
- IFPA training for
 - tribal leaders and workers, and
 - CYFD protective services staff and CCAs (including ongoing microlearnings)
 - Resource Parent training
- Indian Child Welfare Summit–October 11, 2022
- Resource dissemination to support implementation

NEXT STEPS

- Collaborating with AOC on IFPA training for judges and others in 2023
- Updating procedures and promulgating rules to incorporate IFPA



Appendix C

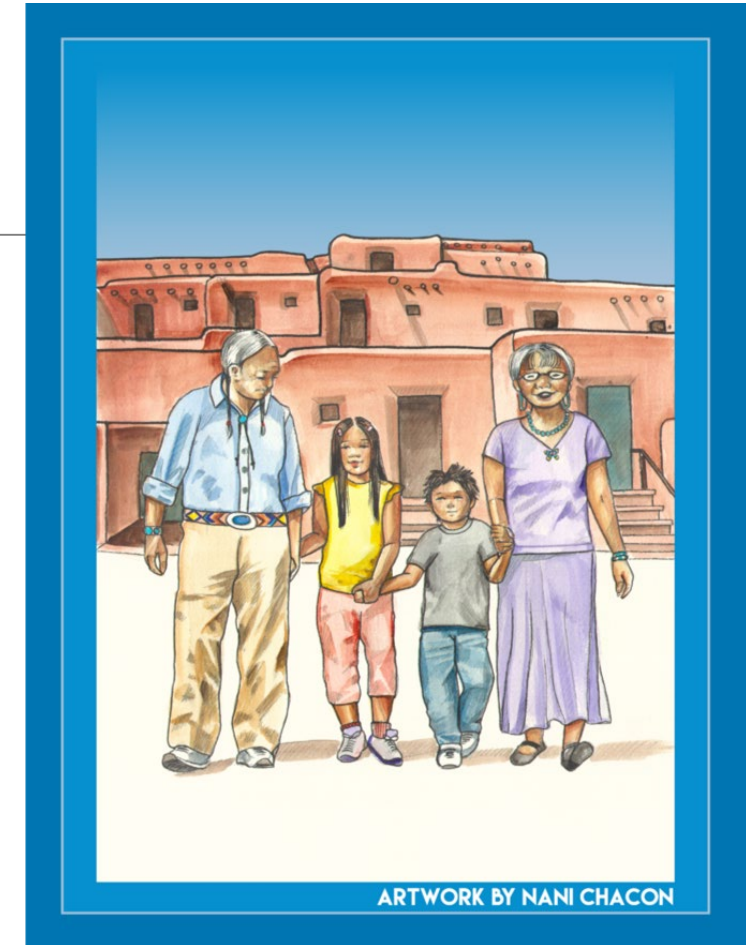
TO 4.1 - Out of Preferred Placement Reviews

CURRENT ACHIEVEMENTS

- Approval of establishing the OOPP staffing process
- OOPP staffings began in March 2021 - approximately 120 held per month
- QA review and listening sessions held.
- Opportunity to support frontline workers' commitment to preserving cultural connections.

NEXT STEPS

- Create a method for comparing length of time in OOPPs before the OOPP staffings began and after.
- Revise PIG to improve effectiveness



Appendix C

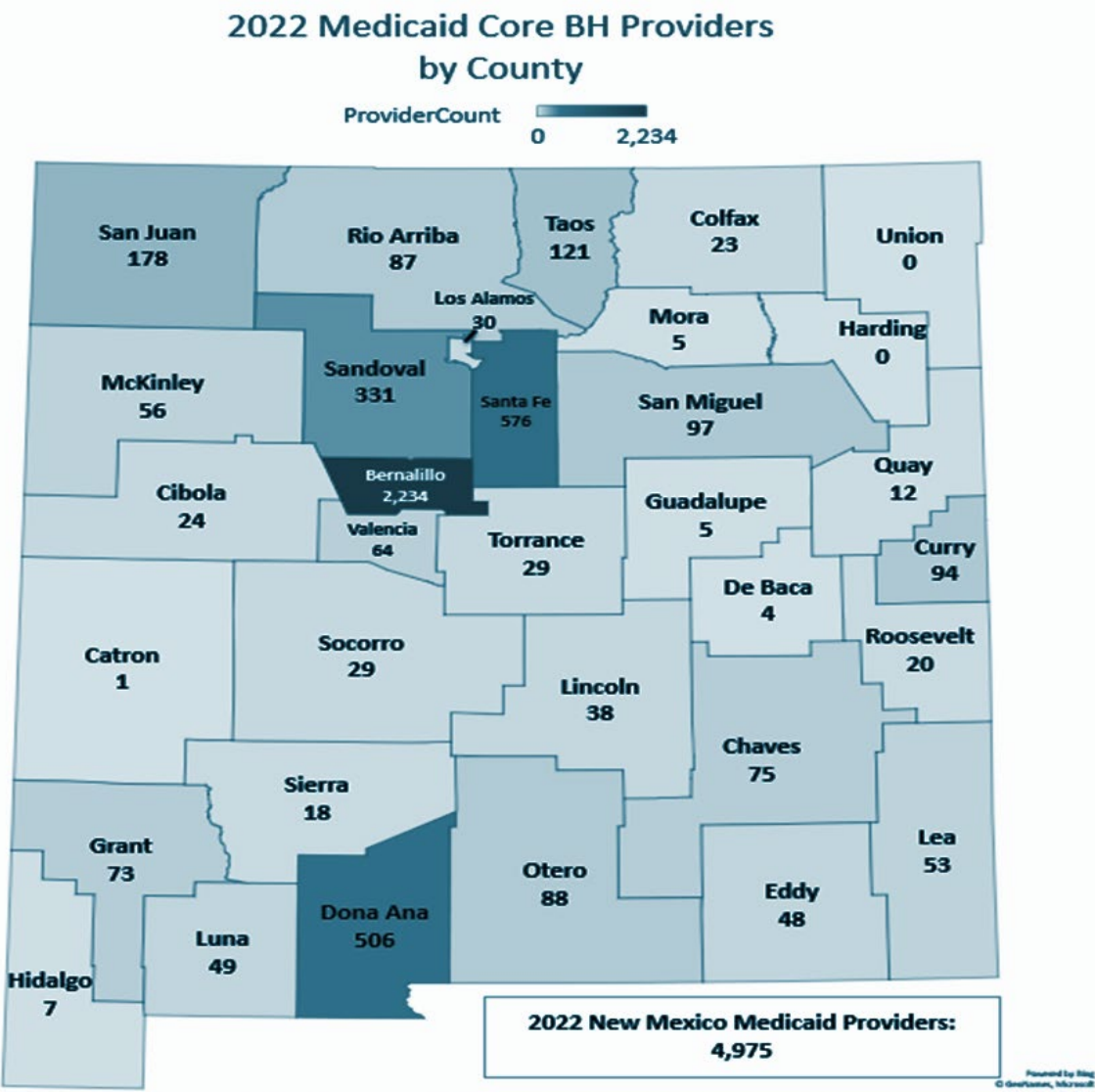
*IT 3.1 HSD and CYFD will pursue federal funding to the maximum extent allowable through Medicaid and IV-E funding
Medicaid 1115 Waiver Renewal & MCO Procurement*

- 1115 Waiver Renewal
 - Fall 2022 submission to CMS
 - Effective date of new waiver January 2024
- MCO Procurement
 - Fall 2022 release date
 - Successful bidders begin January 2024
- Native American CISC Program Changes:
 - Directed Reimbursement for Tribal Healing
 - Single CISC MCO for all CISC (Native Americans can choose FFS)

1115 Waiver Renewal/Medicaid MCO Procurement Stakeholder Sessions 2022	
Date	Meeting
4/26/2022	Tribal Listening Session
5/4/2022	Sister Agency and Partner Session
5/5/2022	Large Stakeholder Session
5/11/2022	Legislator Session
5/11/2022	Legislative Finance Committee (LFC), Department of Finance Administration (DFA), and Governor's Office Listening Session
5/12/2022	Tribal Meeting with Navajo Nation
5/13/2022	Tribal Meeting with Zuni and Laguna Pueblo
7/20/2022	Tribal Leadership Meeting/MAD/BHSD/CYFD/IAD
9/1/2022 – 10/31/2022	Public Comment Period, including Tribal Consultation and Public Hearings

Appendix D Commitments

- ❑ CYFD and HSD will build a statewide, community-based mental health system that all children and families will be able to access, regardless of where they live.
- ❑ The system will include a diverse and full spectrum of community-based services, will decrease reliance on congregate care, keep families together in their community to the maximum extent possible, and greatly reduce reliance on out-of-state residential placements.



Source: New Mexico Human Services Department, Behavioral Health Services Division based on provider enrollment in the Medicaid system. The totals do include providers who offer services in multiple counties throughout the state, however have a Medicaid provider identification for each area serviced. Providers who are serving multiple counties may not be serving the county on a full-time basis.

Appendix D

IT and TO 1.1 - Behavioral Health Provider Network

CURRENT ACHIEVEMENTS

Myers & Stauffer Needs Assessment Report completed in July 2022

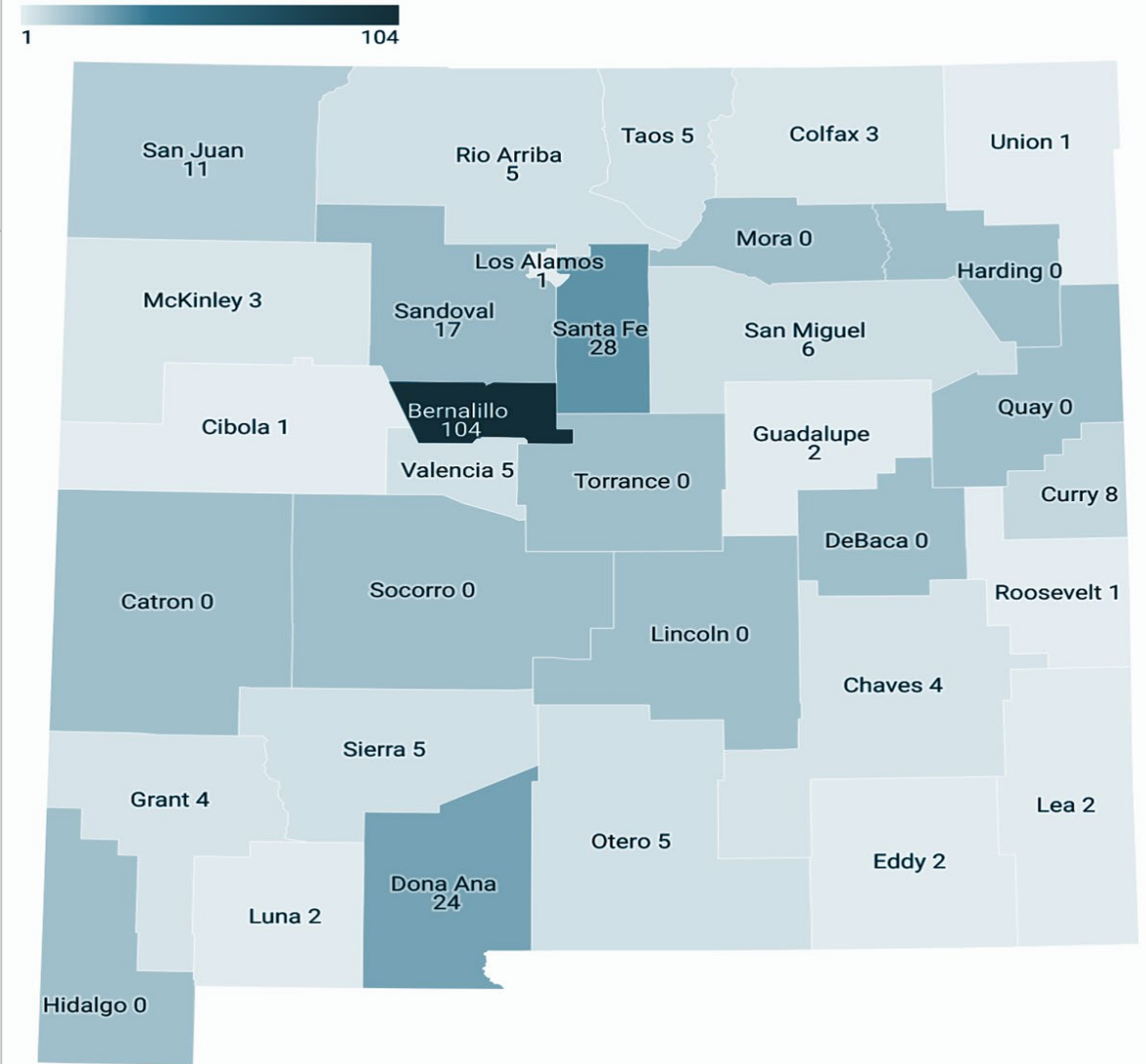
- Surveyed 51 current or former youth in custody
- Surveyed 387 BH providers, agencies and primary care providers
- Interviews with 49 state and community representatives
- Key Findings Identified; Suggestions from Stakeholders & Considerations for the State

NEXT STEPS

Utilizing feedback to support and continue to build the BH Network

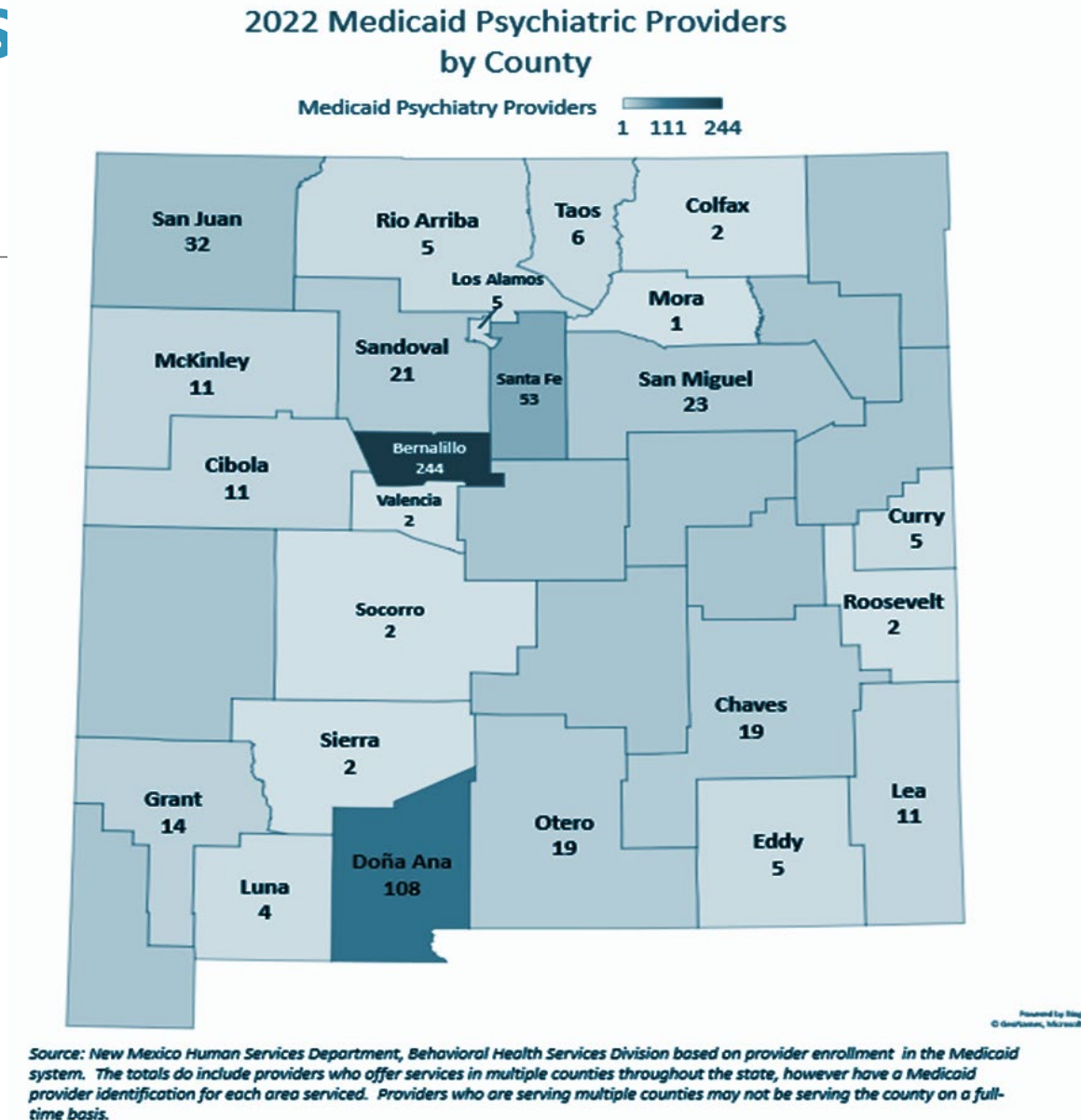
Behavioral Health Agencies

Provider Type - 432, 446; Specialty - All



Appendix D Accomplishments

- ✓ High Fidelity Wraparound Service Approved
- ✓ 30% average increase to BH Outpatient Provider Rates
- ✓ 103.8% Increase in number of 'Core' BH Providers since 2017
 - 66.2% Urban
 - 31.8% Rural
 - 1.9% Frontier
- ✓ 66% increase in Medicaid BH Prescribers since 2017
- ✓ Medicaid Actuary conducting provider rate benchmarking work to include BH rates
- ✓ Rate Development for Evidenced Based Therapies
- ✓ MCO Care Coordination Level 2 or 3 for CISC



Medicaid 1115 Waiver Renewal & MCO Procurement

1115 Waiver Renewal - specific to children in custody:

- High Fidelity Wraparound
- Statewide Closed Loop Referral System
- Continuous Eligibility for Children up to age 6
- Expand Home Visiting Programs
- Native American Member Directed Reimbursement for Tribal Healing

MCO Procurement Program Changes

- Effective January 2024
- Single CISC MCO

QUESTIONS?
