

members with respect to the DD Waiver services program, the Department's challenges, and class counsel's ideas regarding implementation of a Suitable Representative plan. Another such meeting is scheduled for December 19, 2022.

Implementing the New SIS-A Resource Allocation Model

The Department has delayed its efforts to implement the new Resource Allocation Model using the SIS-A assessment tool because the Technical Assistance that the Centers for Medicaid and Medicare Services (CMS) gave to the Department appeared to require that the Department run both the old Budget Tool as well as the new resource allocation model, which relies on the SIS-A, for new enrollees and applicants to the Adult DD Waiver Services program. The Department has withdrawn from CMS the content necessary to implement the new resource allocation model during the ARP MOE period.

The Department and Class Counsel have also discussed having an "overlap" period of some duration where the SIS-A is administered, and data is collected on the budgets being calculated based on information generated by the SIS-A, while at the same time making class members' injunction budgets available if the class member chooses to utilize it. The Department has been evaluating such an overlap period since mid-September and has informed class counsel that that evaluation is ongoing.

Due to the delay in implementation, the Class may have to seek to compel implementation or otherwise address the Department's failure to comply with the Court's order to implement the new budget model no later than June 2022. (Dkt. 429).

Developing a Plan for Regular Testing of the SIS-A

The Department states that it is developing a model testing process to ensure that, once implemented, the new resource allocation model is operating as designed and is being accurately

implemented. On January 31, 2022, the Department posted on its MyChoiceMatters website the final HSRI Recommendations for a Resource Allocation Model Testing and Evaluation Plan. However, the Department acknowledges that it has not provided class counsel with information on whether it will adopt any of HSRI's recommendations.

Developing a Suitable Representative Plan

The Department submitted a Suitable Representative Plan to Class Counsel in May 2022, to which Class Counsel proffered multiple objections. The Department has not yet submitted a Suitable Representative Plan to the Court for approval, and does not anticipate doing so until the current, ongoing discussions regarding that plan have either produced a mutually acceptable plan or the parties have reached an impasse.

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