BRINGING PEOPLE HOME

Year 1 of the *Marsters v. Healey* Settlement Agreement

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Marsters v. Healey

Marsters v. Healey is a lawsuit filed by seven individuals with disabilities in nursing facilities and the Mass Senior Action Council against the Commonwealth of Massachusetts.

They brought this case on behalf of thousands of people in nursing facilities who want to return to the community, but need support from the State to do so.

After lengthy negotiations, the Commonwealth and Plaintiffs reached a Settlement Agreement in 2024 to provide services so that everyone who wants to, can come home.

The Agreement is **cross-disability** and specifically addresses the disproportionate impact of unnecessary institutionalization on people of color.

The Plaintiff Class

- People age 22 or older **and**
- Have Medicaid or are eligible for Medicaid **and**
- Have lived in a Massachusetts nursing facility more than 60 days **and**
- Have a disability **and**
- Want to live in the community or want more information about living in the community

OR

- Have a serious mental illness and need services in the nursing facility

PROMISES AND PERFORMANCE

Implementation progress at the end of Year 1 of the Agreement

Promise: Comprehensive Case Management Services—CTLP

¶¶ 3-16 **Community Transition Liaison Program (CTLP)** administered by EOAI, and provided by the ASAPs, promises **in-reach, informed choice, and transition planning** for **all** people with disabilities in nursing facilities.

- Includes an **in-reach** program that provides weekly visits to nursing facilities and monthly in-person case management meetings with individuals to offer:
  - Information in people's primary language.
  - Opportunities to explore community living including visits.
  - Support to make an **informed choice** about whether to move, including engaging chosen supporters.
  - **Transition planning** and assistance.

Performance: CTLP

- Quarterly data: Year 1 totals
  - 45 teams that visit every nursing facility weekly
  - 12,631 in-reach visits to nursing facilities from 45 CTLP teams.
- CTLP Annual report:
  - 11 different ways residents are identified for initial engagement
  - No measurement for re-engagement
  - Number of teams are adequate, based upon state's annual capacity assessment

Promise: Comprehensive Case Management Services—MFP Demo

¶¶ 17-24 **Money Follows the Person Demonstration (MFP Demo)** operated by EOHHS' Office of MassHealth promises **in-reach, informed choice, and transition assistance to people enrolled in the Demo**

- Includes case management services that provide:
  - Information and discussions about community living options through MFP Demo, including addressing barriers and concerns, and arranging community visits.
  - Assisting individuals in executing MFP Informed Consent, applying for HCBS waivers or other MassHealth long-term services and supports, and in locating, applying for, and qualifying for housing options.

Performance: MFP Demo

Quarterly data: Year 1 totals

- 1,418 people from nursing facilities enrolled in MFP Demo.

Enrollments by CMS Target Group	
Older Adults	578
ID/DD	18
Mental Illness	155
Physical Disability	355

Promise: PASRR Screening and Evaluations

¶¶ 25-27 promise:

- Screening and evaluation for all people suspected of having "serious mental illness" as defined in the federal PASRR regulations (PASRR SMI) to accurately determine diagnosis, service needs, and appropriateness of nursing facility placement. 42 C.F.R. § 483.102.
- Annual resident reviews conducted by DMH and expanded authorization for DMH-funded services and supports for everyone in the nursing facility who was determined to have PASRR SMI at any point during their current nursing facility admission.

Performance: PASRR Screening and Evaluations

- Quarterly data: Year 1 totals
  - 107,837 Level I screens
    - 7,064 Level II evaluations
      - 369 Level II evaluations positive for PASRR SMI
- Year 2 Quarter 1
  - 26,698 Level I screens
    - 1,901 Level II evaluations
      - 99 Level II evaluations positive for PASRR SMI
  - 175 people found PASRR SMI negative but DMH continuing to follow.
  - 274 people determined appropriate for alternative placement

Promise: Specialized and Behavioral Health Services

¶¶ 28-34 (DMH transition case management); ¶¶ 36-41: (BH CPs) promises:

- For people with PASRR SMI or a history of PASRR SMI, provision and coordination of behavioral health and specialized services by **Behavioral Health Community Partners (BH CPs)**, and transition assistance by **DMH case managers**.
- Includes:
  - Assessment and behavioral health care plans.
  - Provision of services including:
    - While in the facility, specialized services, behavioral health services, and rehabilitative services as identified in the PASRR Level II evaluation.
    - Transition assistance for those interested in leaving.
  - Referrals for services and any necessary follow up to ensure delivery.
  - ¶ 42: Opportunity to participate in community "Clubhouses."

Performance: Specialized and Behavioral Health Services

- Quarterly data:
  - Only 3-6 people used Clubhouse in any reported quarter.
  - Between 159 and 223 unique individuals were recommended to one or more behavioral health services in any reported quarter.
    - Compare with the number of people determined to have PASRR SMI at any point during their admission after the approval date, which ranged from 246 to 421.

	Y1Q1	Y1Q2:	Y1Q3	Y1Q4	Y1 Total	Y2Q1
Number of nursing facility residents with PASRR SMI receiving PASRR SMI Specialized Services (Clubhouse)	**6**	**6**	**4**	**3**	**19**	**3**
Unique individuals recommended to one or more BH services	**165**	**159**	**190**	**223**	**737**	**195**

Promise: Cultural and Linguistic Competency

¶ 10-11 (CTLP); ¶ 19-20 (MFP Demo); ¶ 31-32 (DMH); ¶ 39-40 (BH CPs) promises:

- Each case management program must provide culturally and linguistically competent services.
- Each program must provide case managers with ongoing training consistent with the National Standards for Culturally and Linguistically Appropriate Services ("CLAS").

Performance: Cultural and Linguistic Competency

- The State reports that CLAS training is now incorporated in all necessary training requirements.
- MassAbility and DDS have 3 hours over 3 modules of training incorporated into their training portal, and the DMH Nursing Facility team is 100% trained.
- ASAPs and BH CPs are aware of the requirement and working towards compliance.

Promise: Informed Choice

¶ 1 (purpose of the Agreement); ¶ 12 (CTLP choice policy); ¶ 21 (MFP Demo choice policy); ¶ 33 (DMH choice policy)

- The purpose of the Agreement includes assisting nursing facility residents in making informed choices about whether to remain in or leave nursing facilities.
- Informed choice means far more than just information; it includes a broad array of activities that address the individual's capacity and experience in making choices and living in an institution.

Promise: Informed Choice

¶ 1 (purpose of the Agreement); ¶ 12 (CTLP choice policy); ¶ 21 (MFP Demo choice policy); ¶ 33 (DMH choice policy)

- Each of the case management teams must have an informed choice policy that ensures that individuals are provided with reasonable accommodation for cognitive impairments or other challenges to allow full participation in decision-making.
- The polices recognize an individual's right to participate in all decisions and acknowledge an individual's right to consult with and include chosen supporters.

Performance: Informed Choice

- Each of the policies has been reviewed and approved by plaintiffs' counsel.

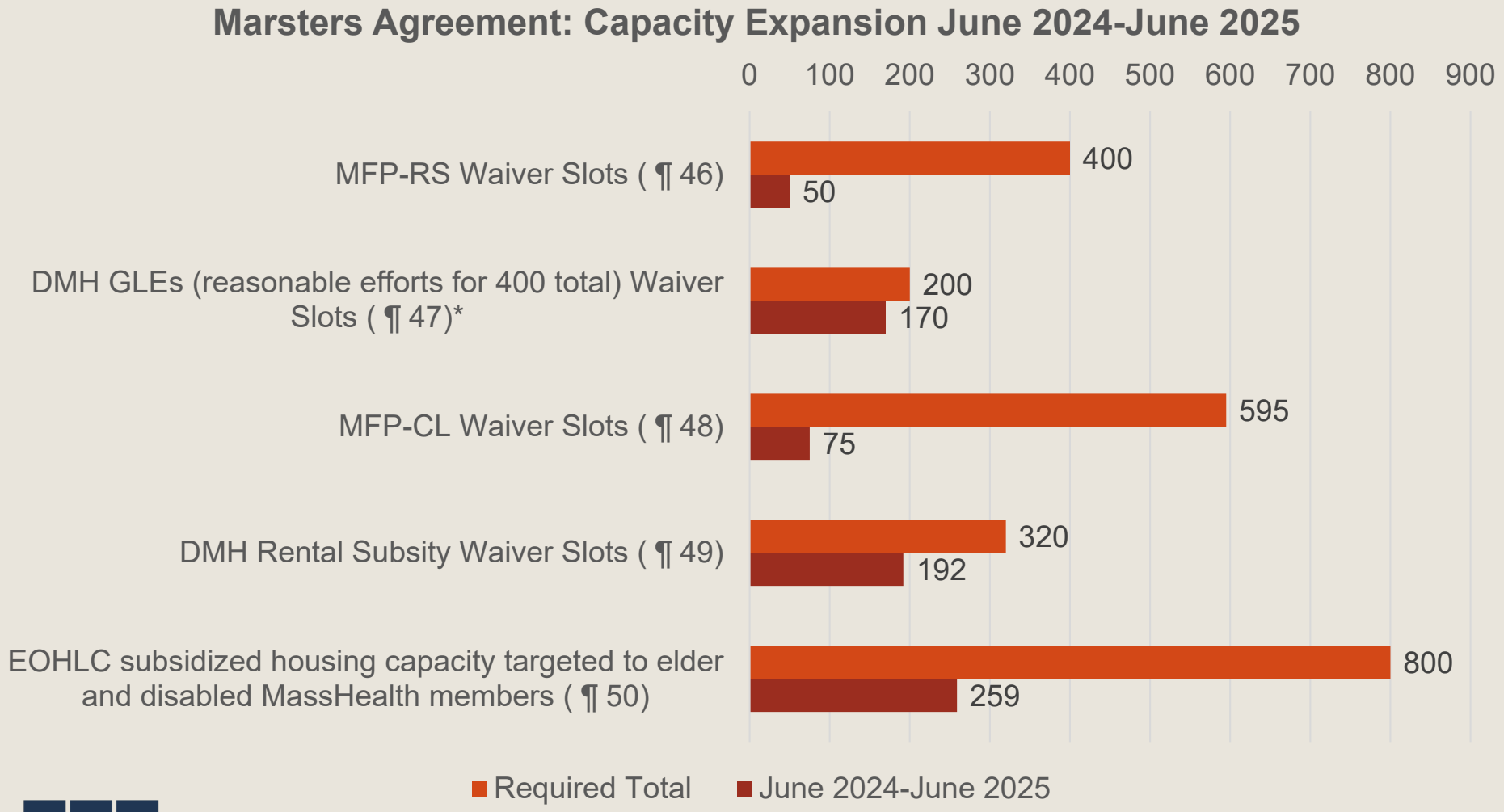
- The policies are a strong first step—policies include reasonable accommodations and presumptions that people want to and can leave nursing facilities (as opposed to want to and must stay in nursing facilities).

Promise: Expanded Community Capacity and Transitions

¶¶ 46-54 (capacity expansion) and ¶¶ 58-59 (transitions) promises:

- Capacity expansion:
  - Supported community residential settings: MFP-RS waiver slots and DMH Group Living Environments.
  - Non-residential service programs: MFP-CL waiver slots, rental subsidy program slots, and additional subsidized housing for elder and disabled MassHealth members, both mobile and project based.
  - Home modifications for people with existing housing with accessibility barriers
- Transitions: at least 2,400 class members will transition community residential settings with supports over 8 years within the previously referenced timeframes.

Performance: Expanded Community Capacity and Transitions



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CHALLENGES FOR YEAR 2

Challenges for Year 2

- Fully and effectively implement informed choice policy.
- Ensure that all staff provide culturally and linguistically competent services.
- CTLP
  - Determine if additional CTLP teams are needed to provide all residents with informed choice about transition.
    - Are 45 teams enough to continue in-reach efforts periodically when people initially decline?
  - Shift CTLP teams from a reactive approach to a proactive approach to in-reach.
- Waivers
  - Address MFP-RS capacity limit by increasing number of new waiver slots annually beyond the 50 per year currently required by the Agreement.
  - Reduce MFP denials for safety reasons by clarifying and defining safety conditions.

Challenges for Year 2

- PASRR
  - Expand number of people with SMI identified as PASRR eligible.
  - Increase availability and utilization of PASRR behavior and specialized services.
  - What is happening to people who meet the less restrictive DMH definition of mental illness, but not the PASRR SMI definition? Do they get services and supports? A DMH case manager?
  - Why aren't more people using Clubhouse?
  - Why are there so many people with PASRR SMI who are not recommended for specialized or behavioral health services?
- Capacity
  - Address lack of DMH and EOHCL funding for housing subsidies.
  - Are people able to transition within the timeframes identified in ¶ 58 absent reasonable exceptions?
    - a) 18 months for transitions to a provider-operated setting
    - b) 12 months for transitions to new home or apartment
    - c) 9 months for transition to existing home or apartment

PEOPLE ARE COMING HOME

People are coming home!

Sheri Currin languished in a Marlborough nursing facility for almost three years, away from family and friends. In her new home in Southborough, Sheri now enjoys the comfort of her own private bedroom, with furnishings she chose, where she can display family photos and her personal belongings. With assistance, Sheri moves freely in her wheelchair to the home's open and spacious communal areas, including an outdoor patio, which she enjoys with her four housemates. Sheri's greatest joy in her new home is the ability to cook for herself in the kitchen, something she missed during her years in the nursing facility.

People are coming home!

Richard Caouette, a U.S. Army veteran, has finally returned home. After suffering a stroke in 2020, Richard endured five years in a Worcester nursing facility where he shared a small room with little natural light and a large amount of unstructured time. He spent his days walking the hallways, watching television, or sleeping. As he put it, “For me, living in a nursing home is like living under martial law.”

Approved for the MFP-RS waiver program, Richard moved in July to his new home in Northborough. Now, he enjoys the privacy of his own bedroom and the chance to take part in daily activities he had long been denied—gardening, cooking, and helping with household tasks.

QUESTIONS?

Email CPR: bringingpeoplehome@cpr-ma.org
Call CPR: 413-586-6024, press 2
https://marsters.centerforpublicrep.org/