

**MEMORIALIZATION OF CORRECTIVE ACTIONS THROUGH
EXPEDITED COMPLAINT RESOLUTION PROCESS FOR AN INDIVIDUAL COMPLAINT
BETWEEN THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES
OFFICE FOR CIVIL RIGHTS AND THE NORTH CAROLINA DEPARTMENT OF
HEALTH AND HUMAN SERVICES**

COMPLAINT # 24-566670

I. INTRODUCTION AND BACKGROUND

- A. The purpose of this Memorialization of Corrective Actions is to set forth the corrective actions that the North Carolina Department of Health and Human Services (NC DHHS) has put in place to resolve a complaint filed with the United States Department of Health and Human Services (HHS), Office for Civil Rights (OCR) through OCR's Expedited Complaint Resolution (ECR) process. The Memorialization also sets forth the additional steps that NC DHHS will take and establishes a monitoring period to ensure that the corrective actions continue and address any issues that may arise.
- B. OCR received complaint # 24-566670 (the complaint) from Disability Rights North Carolina (Complainant) on behalf of Alexis Ratcliff, alleging NC DHHS discriminated against her on the basis of disability. Specifically, the complaint alleged that Ms. Ratcliff, an individual who is ventilator dependent, has been living in a hospital, Atrium Health Baptist Medical Center, since 2019 (at age 13), after being placed there by the State due to NC DHHS's failure to provide her with options to live in the community with appropriate services and supports. During her hospitalization, she graduated high school and received a full scholarship to attend college.
- C. Pursuant to Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and its implementing regulations at 45 C.F.R. Part 84 (Section 504); Section 1557 of the Affordable Care Act, 42 U.S.C. § 18116 and its implementing regulations at 45 C.F.R. Part 92 (Section 1557); and Title II of the Americans with Disabilities Act of 1990, 12131 et seq., as implemented by 28 C.F.R. Part 35 (Title II of the ADA), as interpreted by the Supreme Court in *Olmstead v. L.C.*, 527 U.S. 581, 597 (1999), public entities must administer services to individuals with disabilities in the most integrated setting appropriate to their needs.
- D. As a recipient of Federal financial assistance from HHS, NC DHHS is a covered entity and is obliged to comply with Section 504 and Section 1557 and, as a State agency, NC DHHS is required to comply with Title II of the ADA.
- E. On April 3, 2024, OCR notified NC DHHS of the above-mentioned complaint and OCR's authority under Section 504, Section 1557, and Title II of the ADA to investigate the complaint. OCR offered NC DHHS the opportunity to participate in the ECR process, which NC DHHS accepted.
- F. On May 22, 2024, an initial ECR meeting was held with NC DHHS, Alexis Ratcliff, Disability Rights North Carolina, and OCR. At the time the ECR meeting was held, Ms. Ratcliff had found a home and family to live with, but in order to transition safely

to an apartment in the family home, she required significant home modifications, assistance with her transition to the community, and nursing and support services before she could be discharged from the hospital.

G. During the ECR process, NC DHHS took the following actions to assist Ms. Ratcliff in her choice to transition into an integrated community setting:

1. **Approved the home modifications, equipment, and technology necessary for Ms. Ratcliff to lease an apartment in a family home in the community:** NC DHHS worked with OCR and the HHS Centers for Medicare and Medicaid Services to use the Money Follows the Person program to approve the home modifications deemed necessary for Ms. Ratcliff to live safely in the community setting of her choice.
2. **Developed a comprehensive and adequate transition plan for Ms. Ratcliff:** NC DHHS engaged with Ms. Ratcliff, Disability Rights North Carolina, OCR and Atrium Health Baptist Medical Center in transition planning to put in place the needed individualized and person-centered assessments and services for Ms. Ratcliff's discharge from the hospital and transfer to the community. The transition planning included:
 - a) providing all necessary assessments;
 - b) the provision of any physician-ordered therapeutic services necessary for Ms. Ratcliff to be ready for discharge;
 - c) facilitating community visits to prepare for the transition;
 - d) the approval of Ms. Ratcliff's request for Coordinated Caregiving which provides resources for Ms. Ratcliff to secure live-in direct care support in addition to required skilled nursing services;
 - e) providing psycho-social support and support for educational pursuits, which is being coordinated through Vaya Behavioral Health; and
 - f) additional support by Solutions for Independence, the local Center for Independent Living.

H. The totality of NC DHHS' actions will ensure that Ms. Ratcliff can discharge from the hospital, move into her community, and receive the medically necessary 24-hour services in conjunction with non-medical services and supports through NC Home and Community-Based Services (HCBS) waiver programs that Ms. Ratcliff requires to support her living in the community.

I. NC DHHS has worked cooperatively with OCR, Ms. Ratcliff, Disability Rights North Carolina, and other individuals that Ms. Ratcliff identified throughout this matter and will continue to work with Ms. Ratcliff.

J. OCR and NC DHHS agree to resolve the complaint voluntarily by memorializing the actions NC DHHS has taken and the actions it agrees to take together with a monitoring period of one year during which OCR will monitor the provision of services Ms. Ratcliff receives through North Carolina Medicaid to ensure that she continues to receive adequate services necessary for her to remain in the most integrated setting in her community appropriate to her needs.

- K. This Memorialization of Corrective Actions is not a formal finding of wrongdoing or violation of law by NC DHHS nor an admission of liability by NC DHHS regarding the allegations in the complaint.

II. NC DHHS COMMITMENTS FOLLOWING TRANSITION

- A. The Money Follows the Person program will provide 12 months of support for Ms. Ratcliff's transition to community living as NC DHHS develops alternative HCBS funding mechanisms.
- B. Care Plan: NC DHHS will ensure that, upon Ms. Ratcliff's discharge from the hospital and transition to her new home, there is an appropriate person-centered comprehensive care plan in place to support her needs in the community. This care plan will be completed no later than 21 days after Ms. Ratcliff's discharge from the hospital. The care plan will address the following:
 - 1. The number of direct care support and private duty nursing hours Ms. Ratcliff requires, what medical tasks can be delegated to caregivers and personal care aides, and a backup plan for staffing emergencies.
 - 2. Necessary skill building and educational services and supports under NC HCBS programs and other NC DHHS programs as well as other services and supports that Ms. Ratcliff requires to live her most independent life integrated into the community and accomplish her personal goals.
 - 3. Behavioral health supports.
 - 4. Referrals to community resources available to support Ms. Ratcliff's adjustment from the hospital to a community-based setting.
- C. NC DHHS will approve a live-in caregiver, direct care, and medically necessary skilled nursing services to support Ms. Ratcliff in the community through North Carolina's Medicaid State Plan and enrollment in CAP/Disabled Adults Home and Community Based Waiver which provides her with the option for Coordinated Caregiving and to select her live-in caregiver. NC DHHS will engage with Ms. Ratcliff to provide the names of Case Management Agencies for her to select. Once selected, NC DHHS will monitor the interaction to ensure that the Agency is compliant with policy in the delivery of services to Ms. Ratcliff.
- D. Using resources provided under the NC Medicaid Plan and/or any Medicaid waiver program, NC DHHS will also assist Ms. Ratcliff in her pursuit to live in a fully integrated setting in the community by ensuring she has referrals to peer mentorship programs and has opportunities to work and engage in hobbies and activities in the community.

III. GENERAL TERMS

- A. This Memorialization of Corrective Actions resolves OCR Complaint # 24-566670. NC DHHS has a continuing obligation to comply with Section 504, Section 1557, and Title II of the ADA and all other federal laws and applicable regulations. This agreement does not preclude OCR from taking appropriate action to evaluate NC DHHS's compliance with laws OCR enforces.

- B. If at any time OCR believes that NC DHHS has failed to comply in a timely manner with any obligation under this Memorialization of Corrective Actions, OCR may issue NC DHHS a notice of alleged non-compliance and will provide a reasonable opportunity of no less than 10 calendar days to respond, unless the matter requires more urgent action.
- C. This Memorialization of Corrective Actions is a public document that will be available on OCR's public website and upon request by any individual, with appropriate redactions of personally identifiable information.

IV. MECHANISM FOR REPORTING CONCERNS TO NC DHHS

- A. NC DHHS will designate Steven R. Strom, Project Director, Money Follows the Person Demonstration Project, as the point of contact to receive and resolve any issues Ms. Ratcliff encounters with the provision of services she receives through North Carolina's Medicaid programs.
- B. NC DHHS will report to Ms. Ratcliff and OCR actions taken to address any issues Ms. Ratcliff raises.

V. MONITORING AND REPORTING

- A. Twenty-one days after Ms. Ratcliff's transition to the community, NC DHHS will provide OCR with a copy of the person-centered care plan that was finalized after Ms. Ratcliff's discharge from the hospital.
- B. On the last day of each month of the monitoring period after Ms. Ratcliff's transition to the community, NC DHHS will provide OCR with an update on Ms. Ratcliff's home-based services and community-based supports.
- C. NC DHHS will not make any changes to Ms. Ratcliff's care plan without first assessing her needs, ensuring the change is needed to effectuate her right to remain in the most integrated setting in her community, and consulting with her.
- D. During the monitoring period, Complainant or Ms. Ratcliff may report to OCR any concerns related to the provision of adequate services. A finding of non-compliance may extend the one-year monitoring period.

VI. EFFECTIVE DATE AND MONITORING PERIOD

- A. The effective date of this Memorialization of Corrective Actions is June 18, 2025. This Memorialization of Corrective Actions will continue for a monitoring period for one year from the effective date.

For the North Carolina Department
of Health and Human Services

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Services

For the United States Department of Health
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