

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

Case No.: 12-60460-CV-MIDDLEBROOKS/Hunt

UNITED STATES OF AMERICA,

Plaintiff,

v.

THE STATE OF FLORIDA,

Defendant.

ORDER MODIFYING INJUNCTION

In light of my Order dated September 4, 2024, granting the State of Florida's request to Modify the Order of Injunction, the Injunction (DE 1171) is modified as follows: Part IV.A. is hereby STRICKEN, and shall be replaced with the following:

IV. NURSING FACILITY ADMISSIONS AND TRANSITION PLANNING

It is further ORDERED that:

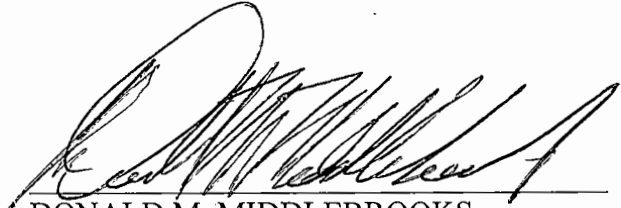
- A. Consistent with Paragraph I(Q) and without waiting for parent(s)/guardian(s) to request it, the State must initiate an individualized Transition Planning Process for every NF Child and every child with Complex Medical Needs who may be admitted to a Nursing Facility. For any NF Child who already resides in a Nursing Facility, the Transition Planning Process must begin by August 1, 2023 and a Transition Plan must be completed by September 1, 2023; for any newly admitted NF Child, the Transition Planning Process must have begun before admission and a Transition Plan must be completed within 30 days after admission. The State must then periodically reinstate the Transition Planning Process to update the Transition Plan and to ensure that the update reflects any new circumstances or considerations relevant to transition. The State must reinstate the Transition Planning Process at least once every three months until the NF Child's parent or guardian has participated in the Transition Planning Process at least twice. Beginning with the second Transition Planning Process in which the parent or guardian participates, the following rules apply:

1. If the parent or guardian selects the following placement option for his or her NF Child, then the State must initiate the next Transition Planning Process within three months: “I want my child to come home or move to a community setting.”
2. If the parent or guardian selects the following placement option for his or her NF Child, then the Care Coordinator must ask the parent or guardian whether the parent or guardian prefers the Transition Planning Process to be reinitiated within every three months or six months: “I want my child to stay in a nursing facility at this time, but I want to overcome identified barriers so my child can come home or transition.”
3. If the parent or guardian selects the following placement option for his or her NF Child, then the Care Coordinator must ask the parent or guardian whether the parent or guardian prefers the Transition Planning Process to be reinitiated within every three months, six months, nine months, or twelve months: “I want my child to stay in a nursing facility and oppose my child living at home or in a community setting.”
4. If the parent or guardian did not participate in the Transition Planning Process and has never expressed a preference regarding the frequency of the Transition Planning Process, then the State must initiate the next Transition Planning Process for the NF Child within three months (or within six months if the parent or guardian declined to participate in—or agreed to participate but did not participate in—the two most recent Transition Planning Processes).

If Paragraph IV.A.2. or IV.A.3 applies, then the Care Coordinator must contemporaneously document the parent’s or guardian’s expressed preference, and make clear to the parent or guardian that the parent or guardian may change his or her preference at any time for any reason. The State must reinitiate the Transition Planning Process within the period selected by the parent or guardian, until the parent or guardian expresses a different preference.

All other terms of the Order of Injunction (DE 1171) remain binding and unchanged. This modification shall take effect immediately.

SIGNED in Chambers at West Palm Beach, Florida this ^{4th}5 day of September, 2024.

A handwritten signature in black ink, appearing to read 'Donald M. Middlebrooks', written over a horizontal line.

DONALD M. MIDDLEBROOKS
UNITED STATES DISTRICT JUDGE

cc: Counsel of Record