

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

James and Lorie Jensen, as parents, guardians  
and next friends of Bradley J. Jensen; James  
Brinker and Darren Allen, as parents,  
guardians and next friends of Thomas M.  
Allbrink; Elizabeth Jacobs, as parent, guardian  
and next friend of Jason R. Jacobs; and others  
similarly situated,

Civil No. 09-1775 (DWF/FLN)

Plaintiffs,

v.

**AMENDED ORDER**

Minnesota Department of Human Services,  
an agency of the State of Minnesota; Director,  
Minnesota Extended Treatment Options, a  
program of the Minnesota Department of  
Human Services, an agency of the State of  
Minnesota; Clinical Director, the Minnesota  
Extended Treatment Options, a program of  
the Minnesota Department of Human Services,  
an agency of the State of Minnesota; Douglas  
Bratvold, individually, and as Director of the  
Minnesota Extended Treatment Options, a  
program of the Minnesota Department of Human  
Services, an agency of the State of Minnesota;  
Scott TenNapel, individually and as Clinical  
Director of the Minnesota Extended Treatment  
Options, a program of the Minnesota Department  
of Human Services, an agency of the State of  
Minnesota; and State of Minnesota,

Defendants.

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Margaret Ann Santos, Esq., Mark R. Azman, Esq., and Shamus P. O'Meara, Esq.,  
O'Meara Leer Wagner & Kohl, PA, counsel for Plaintiffs.

Steven H. Alpert and Scott H. Ikeda, Assistant Attorneys General, Minnesota Attorney General's Office, counsel for State Defendants.

Samuel D. Orbovich, Esq., and Christopher A. Stafford, Esq., Fredrikson & Byron, PA, counsel for Defendant Scott TenNapel.

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This matter is before the Court pursuant to the Court Monitor's *Report to the Court: Adoption of Comprehensive Plan of Action (February 13, 2013)* (Doc. No. 271) ("Report") and Second Amended Comprehensive Plan of Action ("CPA") (Doc. No. 283),<sup>1</sup> filed pursuant to the Court's Order of January 22, 2014 (Doc. No. 266). No objections have been filed.

On August 28, 2013, the Court directed that the Department of Human Services ("DHS") submit a proposed implementation plan for the Court's review and approval. In part, the Court directed that the implementation plan encompass the Settlement Agreement requirements (aside from Rule 40 and the *Olmstead* plan). The Court also directed that the DHS submit a proposed Rule 40 implementation plan for the Court's review and approval, as well as a proposed implementation plan corresponding with its submission of the implementation of the *Olmstead* plan.

Based upon the presentations and submissions of the parties, as well as the submissions of the Court Monitor and again, given the continued concerns of the Court relating to the status of the case and ongoing concerns with noncompliance of the Settlement Agreement by the Defendants; the Court having again reviewed the

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<sup>1</sup> The Court filed the Second Amended Comprehensive Plan of Action at Doc. No. 283 after an earlier version of the Comprehensive Plan of Action was inadvertently filed at Doc. No. 280 and has subsequently been marked filed in error.

procedural history of the case; and the Court being otherwise duly advised in the premises, the Court hereby enters the following:

**ORDER**

1. The Court Monitor's *Report to the Court: Adoption of Comprehensive Plan of Action (February 13, 2013)* (Doc. No. 271) ("Report") and Second Amended Comprehensive Plan of Action ("CPA") (Doc. No. 283) are hereby **ADOPTED and APPROVED**. Defendants, their officials, staff, agents, and all of those acting in concert with them, shall comply with the CPA.

2. Defendants shall file the first update within thirty (30) days, and this update shall add deadlines for compliance with each Evaluation Criteria and for achievement of each Action. Further, the Court directs that the first update shall also include a revised narrative and the additional information for the MSHS-Cambridge closure and replacement required by the Order of August 28, 2013, as well as the chronological display of the deadlines added by Defendants. A second update within sixty (60) days shall address the substantive requirements of the CPA. The Court Monitor shall establish, and may in his discretion modify, the reporting formats with input from each party.

3. Once a second update is submitted, within sixty (60) days of that date, the Defendant shall, on a bi-monthly basis, provide updates regarding compliance. The Court Monitor shall establish the reporting formats for each update.

4. The Defendants shall provide drafts of the updates for comment, five (5) working days before their due date, to Plaintiffs' Class Counsel; the Court Monitor; Roberta Opheim, Ombudsman for Mental Health and Developmental Disabilities; and

Colleen Wieck, Ph.D., Executive Director of the Minnesota Governor's Council on Developmental Disabilities.

**5. Publication**

Defendants are respectfully directed to publicize the CPA both publicly and among all DHS staff and all its divisions. The DHS shall also provide training with respect to the Settlement Agreement and CPA to all DHS staff, the nature and participants in such training shall be approved by the Court Monitor, and the training shall include a presentation by the Court Monitor. The training shall include presentation and discussion and shall not all be online. The Court directs that the directives set forth in this paragraph be completed within ninety (90) days of the date of this Order.

6. The Court respectfully requests the Deputy Commissioner to discuss and reach an agreement with the Court Monitor on the budget for monitoring under this and prior orders and directives of the Court. In the absence of an agreement, the Court will set a hearing or Status Conference to address this issue.

Dated: March 12, 2014

s/Donovan W. Frank  
DONOVAN W. FRANK  
United States District Judge