

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

James and Lorie Jensen, as parents,
Guardians and next friends of Bradley J.
Jensen, *et al.*,

Civil No. 09-1775 (DWF/FLN)

Plaintiffs,

v.

Minnesota Department of Human Services,
an agency of the State of Minnesota, *et al.*,

Defendants.

**OLMSTEAD PLAN: RESOLUTION OF STATE'S
REQUESTS FOR MODIFICATIONS
Nos. 2014-1 through 46**

May 13, 2014

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Before the Court Monitor are 46 requests by the State of Minnesota for modification of the Olmstead Plan which was provisionally approved by the Court on January 14, 2014, four months ago. The background of the Plan is well known to the Court and parties.¹

In establishing the process for modification of implementation plans, including the Olmstead Plan, the Court directed that the Court Monitor resolve all modification requests. A party dissatisfied with the Monitor's resolution may apply to the Court for review of the Monitor's action on a particular modification request.² The standard of review is "good cause shown."³

The Monitor has reviewed the State's modification requests and has resolved them as stated in Appendix A, attached hereto and incorporated by reference.

A large majority of the requests are granted either fully or subject to a requested modification. Nearly all of the granted requests increase the specificity of the plan and do not delay implementation. Thirteen of the requests are denied, five because the proposed delay is not justified and three because of redundancy or absence of

¹ The Settlement Agreement required that

"the State and the Department shall develop and implement a comprehensive *Olmstead* plan that uses measureable goals to increase the number of people with disabilities receiving services that best meet their individual needs and in the "Most Integrated Setting," and is consistent and in accord with the U.S. Supreme Court's decision in *Olmstead v. L.C.*, 527 U.S. 582 (1999).

Settlement Agreement at 18 (Dkt. 136-1). The State submitted its Olmstead Plan on October 31, 2013 (Dkt. 247).

After a *Report to the Court* by the Court Monitor (Dkt. 263), the Court ordered that it "provisionally accepts and approves" the Olmstead Plan, subject to review after the State "revises the Olmstead Plan based upon the Report by the Court Monitor" and after review of any submissions by the Executive Director of the Minnesota Governor's Council on Developmental Disabilities and the Ombudsman for Mental health and Developmental Disabilities. Order of January 22, 2014 (Dkt. 265).

The required revision of the Olmstead Plan is scheduled to be submitted to the Court this summer.

² Order of August 28, 2014 at 6, ¶6 ("Any requests for modification of due dates under the above provisions of this Order and Memorandum, or for modification of the Plans' deadlines or other elements, shall be in writing, for good cause shown, and shall, in the first instance, be addressed and resolved by the Court Monitor, subject to review by the Court on written application by any party.").

³ *Id.*

demonstrated necessity. One request was taken under advisement pending receipt and review of further information. A summary of the dispositions is displayed on the next page.

The Court Monitor takes this occasion to emphasize the Court's mandate that the Olmstead Plan include "measureable goals." When possible, such goals must be related to demonstrating benefits to the individuals intended to be served. Thus, for example, unqualified general goals such as "increase housing," or "establish a process to. . ." are insufficient.⁴

The Monitor believes that, to the State's credit, the State's revised plan will make explicit that, where there is a "plan to plan," the plans developed will be submitted to the Court for approval as modifications to the Olmstead Plan. There will be no unilateral changes to the Olmstead Plan.

While many elements of the Olmstead Plan will require additional funding and resources for implementation,⁵ it is strongly advised that the state agencies participating in drafting the Plan be cautious -- be conservative -- and resist using the Plan simply as a vehicle for increased funding. Many of the actions contemplated by the Plan may be completed with existing or previously anticipated funds and resources.

Finally, the Court Monitor congratulates Dr. Darlene Zangara who has been appointed Executive Director of the Olmstead Implementation Office. She comes to that position with significant leadership experience in administration, advocacy and service for and with people with disabilities. David Sherwood-Gabrielson, who has been interim director, and his associates, are thanked for shepherding the office through the complex initial stages of its work.

Respectfully submitted,

/s/David Ferleger
Court Monitor

May 13, 2014

⁴ In this regard, the chart on the next page highlights (bold and larger font) many modification requests, which do not adequately include measureable goals.

⁵ The comments in this paragraph in no way imply that lack of funds, or legislative inaction, may be grounds for failure to implement the orders of the Court embodied in the Olmstead Plan.

COURT MONITOR DISPOSITION OF MODIFICATION REQUESTS
(by State's Request Number)

	Increases specificity; does not delay implementation	Administrative; background; not substantive	Unjustified delay	Redundant; not necessary	Miscellaneous
GRANTED	5, 11, 19, 20, 24, 28, 40	3, 8			41
GRANTED WITH MODIFICATION	9, 12, 17, 21 , 22, 23, 25, 29 , 30, 31 , 35 , 37, 38, 39 , 45	1, 2	7, 27		32, 44
GRANTED. MODIFICATION REQUIRED					46
DENIED. MODIFICATION REQUIRED					16
DENIED			14, 18, 36, 42, 43	15, 33, 34	4, 6, 10, 13

Taken under advisement: **26**

Note: Bold larger font items reference need for measureable goals related to demonstrating benefits to the individuals intended to be served.

APPENDIX

A

Modification Request No. 2014-1

Olmstead Plan Action Item Code:	Information about this document
Action Item Page Number:	6

Reason for requested modification:
The proposed language updates the background information to explain why the Olmstead Plan is being modified.

Current language for Action item including current date set for completion:
This is Minnesota's 2013 Olmstead Plan; the effective date is November 1, 2013. Writing teams from Olmstead Subcabinet agencies have developed specific actions and timelines related to topic areas such as employment, housing, and transportation. The teams used an iterative writing process, listening to input from individuals with disabilities, family members and guardians, advocacy organizations, service providers, and national experts as they revised the draft plan. Minnesota's Olmstead Plan will continue to be refined and updated over the coming years as the state implements the actions described in this plan, and as the subcabinet hears from stakeholders about what is working and what is not working.

Proposed language of Action Item including any timelines for completion:
On January 22, 2014, United States District Judge Donovan Frank provisionally accepted and approved Minnesota's 2013 Olmstead Plan and respectfully directed the Olmstead Subcabinet to modify the plan. This is the first draft of modifications to Minnesota's 2013 Olmstead Plan. The effective date of the full Olmstead Plan is November 1, 2013, but the revisions and additions in this document are not finalized. To develop the 2013 Olmstead Plan, writing teams from Olmstead Subcabinet agencies developed specific actions and timelines related to topic areas such as employment, housing, and transportation. The teams used an iterative writing process, listening to input from individuals with disabilities, family members and guardians, advocacy organizations, service providers, and national experts as they revised the draft plan. To develop the revisions and additions in this draft, teams conferred with stakeholders and agencies (particularly mental health advocates and the Department of Corrections), and reviewed comments from the court monitor overseeing the <i>Jensen</i> settlement agreement.

COURT MONITOR DECISION:	GRANTED WITH MODIFICATION
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The modification is not substantive. It recites the history of the drafting process. However, the first sentence is incomplete; it truncates the order. The Court's January 22, 2014 Order directed modification of the Plan *based on the Court Monitor's report*. The modification is GRANTED upon revision of the sentence to quote from the Order through to the end of the sentence.

Modification Request No. 2014-2

Olmstead Plan Action Item Code:	Modifying the Olmstead Plan (New Section)
Action Item Page Number:	6

Reason for requested modification:
The purpose of this language is to specify the schedule for modifications to the Plan.

Current language for Action item including current date set for completion:
New language

Proposed language of Action Item including any timelines for completion:
<p>Minnesota's Olmstead Plan will continue to be refined and updated over the coming years as the state implements the actions described in this plan, and as the subcabinet hears from stakeholders about what is working and what is not working. The subcabinet intends to review the need for modification of the plan every six months; this schedule will allow the state to address emerging issues and to adjust the plan if legislation, funding, or federal regulations impact the plan.</p> <p>The Plan and its AMENDMENTS are subject to the approval of the Court in <i>Jensen et al. v. Minnesota Department of Human Services et al.</i> As such, and pursuant to the Court's August 28, 2013, Order [Dkt. 224], "[a]ny requests for . . . modification of the Plans' deadlines or other elements, shall be in writing, for good cause shown, and shall, in the first instance, be addressed and resolved by the Court Monitor, subject to review by the Court on written application by any party."</p>

COURT MONITOR DECISION:	GRANTED WITH MODIFICATION
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The word "amendments" in the first line of the second paragraph must be changed to "modifications" for consistency with the first paragraph and with the Court's Order on modifications. Otherwise, good cause is shown as this is administrative and informative text, and does not detract from substantive requirements.

Modification Request No. 2014-3

Olmstead Plan Action Item Code:	Developing the Olmstead Plan
Action Item Page Number:	18

Reason for requested modification:
The purpose of the language is to update background information from the November Olmstead Plan to the present.

Current language for Action item including current date set for completion:
In the months since the Executive Order, staff from subcabinet agencies have been working within their organizations and across departments to develop Minnesota's Olmstead Plan. The subcabinet itself has met at least monthly since January 2013 to discuss progress on planning efforts and to respond to drafts and information. Subcabinet agencies committed to a collaborative and iterative process in developing the plan—they have incorporated initial feedback from other agencies and stakeholders as they prepared drafts, and they know that the plan must be regularly updated with ongoing input from Minnesotans.

Proposed language of Action Item including any timelines for completion:
In the months since the Executive Order, staff from subcabinet agencies worked within their organizations and across departments to develop Minnesota's Olmstead Plan. The subcabinet itself met at least monthly from January 2013 to November 2013 to discuss progress on planning efforts and to respond to drafts and information. Subcabinet agencies committed to a collaborative and iterative process in developing the plan—they incorporated initial feedback from other agencies and stakeholders as they prepared drafts, and they know that the plan must be regularly updated with ongoing input from Minnesotans. After the 2013 Olmstead Plan was published, the Olmstead Implementation Office and subcabinet agencies reviewed feedback and identified areas of the plan that should be modified. The subcabinet intends to review the need for modification of the Olmstead Plan every six months (as described on page 6 of this document).

COURT MONITOR DECISION:	GRANTED
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The added language updates background information and is not substantive. Good cause is shown.

Modification Request No. 2014-4

Olmstead Plan Action Item Code:	Stakeholder Feedback: November 2013 – June 2014 (New section)
Action Item Page Number:	23

Reason for requested modification:
The purpose of this language is to update public comments on the Olmstead Plan from November, 2013 to the present.

Current language for Action item including current date set for completion:
New language

Proposed language of Action Item including any timelines for completion:
Place holder for public comments to be added prior to submission in July 2014.

COURT MONITOR DECISION:	DENIED
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Good cause is not presented for this modification. In any event, text which is not known (and apparently does not yet exist) cannot be approved for addition to a court-adopted plan.

Modification Request No. 2014-5

Olmstead Plan Action Item Code:	QA1A – Quality of Life Measurement
Action Item Page Number:	28

Reason for requested modification:
The current Olmstead Plan requires the development of a quality of life survey. The survey instrument needed to be developed and tested prior to contracting with an independent entity for the baseline study and subsequent sampling. The survey instrument was selected by the March 31, 2014 due date. The OIO is on track to contract with an independent entity to conduct annual assessment of quality of life measures by July 1, 2014. In order to get a survey tool in place, it was necessary to identify the survey instrument prior to contracting for application of the instrument.

Current language for Action item including current date set for completion:
By March 31, 2014 the state will select a set of quality of life outcome indicators and contract with an independent entity to conduct annual assessment of the quality of life measures listed above.

Proposed language of Action Item including any timelines for completion:
By March 31, 2014 the state will select a set of quality of life outcome indicators and identify the survey instrument that will establish a baseline and allow ongoing evaluation of quality of life outcome indicators.

COURT MONITOR DECISION:	GRANTED
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The modification is an addition to the Plan, which increases its specificity, and does not delay or undermine other plan elements.

Modification Request No. 2014-6

Olmstead Plan Action Item Code:	QA1B – Quality of Life measurement
Action Item Page Number:	28

Reason for requested modification:
The proposed language changes the order of when actions occur. The survey instrument needed to be developed and tested prior to contracting with an independent entity for the baseline study and subsequent sampling. The survey instrument was selected by the March 31, 2014 due date. The OIO is on track to contract with an independent entity to conduct annual assessment of quality of life measures by July 1, 2014. In order to get a survey tool in place, it was necessary to identify the survey instrument prior to contracting for application of the instrument.

Current language for Action item including current date set for completion:
By July 1, 2014 the State will identify the survey instrument that will establish a baseline and allow ongoing evaluation of quality of life outcome indicators.

Proposed language of Action Item including any timelines for completion:
By July 1, 2015 the state will contract with an independent entity to conduct a 2014 pilot assessment of the quality of life measures listed above in preparation for the 2015 baseline study and subsequent sample studies in 2016-2018.

COURT MONITOR DECISION:	DENIED
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No good cause is presented to contract in mid-2015 for a 2014 pilot assessment to “prepare for” a 2015 baseline study, especially because the quality of life outcome indicators will have been established in March 2014 (see prior modification request).

Modification Request No. 2014-7

Olmstead Plan Action Item Code:	New Action Items – Quality of Life after QA Action 1
Action Item Page Number:	28

Reason for requested modification:
Quality of life surveys currently in use, lack the necessary rigor to answer the question of how, across all disabilities and ages, people's lives are improved by leaving segregated settings to live, work, go to school, and play in the most integrated settings. The purpose of this language is to require the development of qualitative measures that tell the story in the words of the individual.

Current language for Action item including current date set for completion:
New language

Proposed language of Action Item including any timelines for completion:
<p>By June 30, 2015 the state will develop qualitative Quality of Life measures that include the following components:</p> <ul style="list-style-type: none"> • conduct a literature review to determine best practices in qualitative reviews, including validated methodologies for collecting individual stories. • determine if other agencies are utilizing such qualitative measures and if those processes could be adopted or modified. • design an implementation plan for a qualitative measure process telling people's experiences in their own words. • the plan will include assessment of necessary resources, target date for implementation, and a communication plan to ensure the stories are easily available to the public.

COURT MONITOR DECISION:	GRANTED WITH MODIFICATIONS
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There is good cause to develop the Quality of Life measures. However, there is no reason for it to take a full year to conduct a literature review and to "design an implementation" plan. Also missing is a date for full implementation of the plan to be developed. These inadequacies must be addressed. Also, the language should be modified to state measureable results to benefit the intended beneficiaries, and not to be a "plan to plan."

Modification Request No. 2014-8

Olmstead Plan Action Item Code:	New Action Item – Quality Improvement after QA3D
Action Item Page Number:	30

Reason for requested modification:
The Monitor's 12-31-13 report to the Court on the Olmstead Plan raised concerns about the staff resources necessary for the Olmstead Implementation Office to be comprehensive and effective in its role. The proposed language requires the Sub-Cabinet to report on these issues and take action to ensure the OIO has the necessary authority and resources.

Current language for Action item including current date set for completion:

Proposed language of Action Item including any timelines for completion:
By August 31, 2014 the subcabinet will issue a report on the staffing, funding and responsibilities of the Olmstead Implementation Office and on the oversight and monitoring structure described above, including timelines for completion of any outstanding action items.

COURT MONITOR DECISION:	GRANTED
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Good cause is shown for the Olmstead Implementation Office to determine and disclose information relevant to its authority, structure and funding. It is expected that the report will include decisions, and not simply proposals.

Modification Request No. 2014-9

Olmstead Plan Action Item Code:	Introduction to topic-specific plans: What we want and What we'll do
Action Item Page Number:	31

Reason for requested modification:
In the Monitor's 12-31-13 report to the Court, the Monitor questioned why certain goals were not measurable. The purpose of this language is to provide clarity as to why whole population goals serve to provide direction for the plan. Measureable outcomes do exist in the sections under the strategic actions.

Current language for Action item including current date set for completion:
<ul style="list-style-type: none"> What we want: A restatement of the Olmstead Plan goal in the topic area. These goals are at the level of the whole population or community—results for all people with disabilities. We've also identified indicators to evaluate whether we're making progress towards meeting the population-level goal we've set. For some indicators, we already track data to measure our progress; for other indicators, we'll have to begin tracking data as part of our implementation of the plan. What we'll do: Concrete, strategic actions the state will take to meet the goal. These actions range from things state agencies can do right away by working together, to things that will require significant administrative, legislative, or financial changes. Timelines are set for completion of every action. (26) If the subcabinet determines later that timelines cannot be met (for example, if necessary legislation does not pass), this plan will be modified.

Proposed language of Action Item including any timelines for completion:
<ul style="list-style-type: none"> What we want: A restatement of the Olmstead Plan goal in the topic area. These goals are at the level of the whole population or community—results for all people with disabilities. We've also identified indicators to evaluate whether we're making progress towards meeting the population-level goal we've set. For some indicators, we already track data to measure our progress; for other indicators, we'll have to begin tracking data as part of our implementation of the plan. Beyond our regular program performance measures, indicators in the Olmstead Plan provide an additional level of accountability to show whether we are "turning the curve" in the right direction. Specific numerical targets related to the Olmstead Plan are included in sections that describe strategic actions. What we'll do: Concrete, strategic actions the state will take to meet the goal. These actions range from things state agencies can do right away by working together, to things that will require significant administrative, legislative, or financial changes. Timelines are set for completion of every action. If the subcabinet determines later that timelines cannot be met (as examples, if necessary legislation does not pass or if the federal government does not approve a proposed change), the subcabinet might need to seek modification of the plan. In some topic areas, agencies have determined that baseline information is necessary to determine what actions will work best—after the baselines have been established, the subcabinet will identify specific strategic actions, set timelines, and seek modification of the Olmstead Plan as needed. Similarly, in areas of the plan where it is necessary to adopt a policy or process before taking action, the subcabinet may need to seek modification of the plan with actions and timelines once the policy or process is adopted. Any modifications to the Plan will be submitted to the Court Monitor for approval and

subject to review by the court. Refer to page 6 of this document for information on the modification process.

COURT MONITOR DECISION:

GRANTED WITH MODIFICATION

The addition of language committing to specificity is appropriate and adds to the utility of the Plan. However, the implication that federal actions might of themselves, or an absence of state legislation, excuse non-compliance with the Plan is not acceptable and no good cause is demonstrated for that language. The modification is approved upon DELETION of the parenthetical phrase in the second paragraph.

Modification Request No. 2014-10

Olmstead Plan Action Item Code:	Employment: Description (first bullet)
Action Item Page Number:	32

Reason for requested modification:
The purpose of this language is to clarify the intent of the Olmstead Plan to offer informed choice in an array of options. This language was recommended for inclusion by the mental health advocacy groups.

Current language for Action item including current date set for completion:
Ensuring that people with disabilities have choices for competitive, meaningful, and sustained employment in the most integrated setting.

Proposed language of Action Item including any timelines for completion:
Ensuring that people with disabilities have informed choices for a range of competitive, meaningful and sustained employment options in the most integrated setting.

COURT MONITOR DECISION:	DENIED
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The current language requires “choices” for employment “in the most integrated setting.” The addition of language (“options,” “informed,” and “range”) does not add to, or expand, the Plan but rather could be read to permanently approve segregated “options.” No good cause is shown for the change (“clarification of the intent” alone is not good cause).

Modification Request No. 2014-11

Olmstead Plan Action Item Code:	Employment: Strategic Action One: Expand integrated employment
Action Item Page Number:	33

Reason for requested modification:
The purpose of this language is to clarify the intent of the Olmstead Plan to increase competitive employment. This language was recommended for inclusion by the mental health advocacy groups.

Current language for Action item including current date set for completion:
Expanding integrated employment opportunities begins with the individual with a disability. As discussed in the Overarching Strategic Actions (page 25), the state will begin all individual planning by asking the person what they want. In the employment context, students with disabilities will have the supports to help them transition from school to work, and adults with disabilities who seek competitive employment will have support to access employment and to succeed. Minnesota has identified strategies that work to increase integrated employment, and will build on those strategies.

Proposed language of Action Item including any timelines for completion:
Expanding integrated competitive employment opportunities begins with the individual with a disability. As discussed in the Overarching Strategic Actions (page 25), the state will begin all individual planning by asking the person what they want. In the employment context, students with disabilities will have the supports to help them transition from school to work, and adults with disabilities who seek competitive employment will have support to access employment and to succeed. Minnesota has identified strategies that work to increase integrated employment, and will build on those strategies.

COURT MONITOR DECISION:	GRANTED
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Adding the word “competitive” defines and increases the specificity of the type of employment opportunities to be expanded. Good cause is shown.

Modification Request No. 2014-12

Olmstead Plan Action Item Code:	EM1G and one new related action item
Action Item Page Number:	34

Reason for requested modification:
The purpose of this language is to require baseline measures to assess progress on increasing competitive employment and to set a due date.

Current language for Action item including current date set for completion:
<ul style="list-style-type: none"> By June 30, 2014 establish consistent baselines for measuring progress on increased competitive employment of adults with disabilities (including but not limited to people with mental illness and intellectual/developmental disabilities); establish goals for annual progress.

Proposed language of Action Item including any timelines for completion:
<ul style="list-style-type: none"> By June 30, 2014 identify consistent baseline measures to assess progress on increased competitive employment of adults with disabilities (including but not limited to people with mental illness and intellectual/developmental disabilities). By September 30, 2014 establish a baseline for the measures and establish goals to show progress in increasing competitive employment for adults with disabilities.

COURT MONITOR DECISION:	GRANTED WITH MODIFICATION
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Adding establishment of a baseline is necessary, as is establishment of goals. All goals must be "measureable." The modification is approved subject to two changes: a) revising the phrase in the second paragraph to state ". . . establish measureable goals to demonstrate progress . . .," and b) setting 2015 deadlines to achieve those goals for a defined significant portion of the population affected. The measureable goals must be related to demonstrating benefits to the individuals intended to be served.

Modification Request No.2014-13

Olmstead Plan Action Item Code:	EM1K
Action Item Page Number:	34

Reason for requested modification:
The Olmstead Plan calls for a plan to expand the Individual Placement and Supports (IPS) employment program state wide. The proposed language requires the state to seek necessary funding to support the expansion. This language was recommended for inclusion by the mental health advocacy groups.

Current language for Action item including current date set for completion:
<ul style="list-style-type: none"> By June 30, 2015 establish plan to expand Individual Placement and Supports (IPS) employment for Minnesotans with serious mental illness statewide.

Proposed language of Action Item including any timelines for completion:
<ul style="list-style-type: none"> By June 30, 2015 establish plan to expand Individual Placement and Supports (IPS) employment for Minnesotans with serious mental illness statewide. Evaluate current and future sources of funding for Individual Placement and Supports (IPS), including utilizing the 1915(i) Medicaid waiver. By January 30, 2015 prepare legislative proposal for the 2016 session to expand Individual Placement and Supports (IPS) employment for all Minnesotans with serious mental illness statewide.

COURT MONITOR DECISION:	DENIED
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The modification would require preparation of a “legislative proposal” in early 2015 for the 2016 legislative session. The current obligation does not require any legislative approval. Acceptance of this change could be construed to render the current language contingent on adoption of an unknown legislative proposal. No good cause is shown for this change.

Modification Request No. 2014-14

Olmstead Plan Action Item Code:	EM3A
Action Item Page Number:	36

Reason for requested modification:
The Olmstead Plan requires person centered planning training to employment initiatives. The proposed language extends the due date to allow sufficient time to secure PCP training in the employment area. It was found that the existing PCP training did not adequately address the area of employment, so it is necessary to secure PCP training with the employment focus.

Current language for Action item including current date set for completion:
<ul style="list-style-type: none"> By March 1, 2014 enhanced Person Centered Planning training components will be offered to assure employment planning strategies and Employment First principles are understood and incorporated into the tools and planning process.

Proposed language of Action Item including any timelines for completion:
<ul style="list-style-type: none"> By March 1, 2015 enhanced Person Centered Planning training components will be offered to assure employment planning strategies and Employment First principles are understood and incorporated into the tools and planning process.

COURT MONITOR DECISION:	DENIED
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The proposal is to extend for a full year Person Centered Planning in the employment context. The only reason given is that “existing PCP training did not adequately address the area of employment.” No justification is given for a one year delay.

Modification Request No. 2014-15

Olmstead Plan Action Item Code:	Housing: Rental Assistance Programs (new bullet)
Action Item Page Number:	39

Reason for requested modification:
The purpose of this language is to identify an important existing housing model utilized by individuals with mental illnesses. This language was recommended for inclusion by the mental health advocacy groups.

Current language for Action item including current date set for completion:
New language

Proposed language of Action Item including any timelines for completion:
In partnership with Minnesota Housing, DHS provides housing assistance for persons with serious mental illness, utilizing the Bridges and Bridges RTC housing assistance programs, and the Crisis Housing Fund.

COURT MONITOR DECISION:	DENIED
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The modification proposed is to add language as an “action item.” However, the new language is simply a statement of current models which “DHS provides.” No actions, goals or deadlines are proposed. There is no good cause for this addition. It is recognized, of course, that there is no obstacle to DHS continuing to provide such housing assistance; also, if the State desires to establish a measureable goal for this element, a subsequent modification request could be considered. No good cause is shown.

Modification Request No. 2014-16

Olmstead Plan Action Item Code:	New language change to Housing: Strategic Action One (new paragraph) and three new action items after HS1B
Action Item Page Number:	41

Reason for requested modification:
The purpose of this language is to provide background information on housing issues faced by individuals with disabilities when they are released for prison.

Current language for Action item including current date set for completion:
New language

Proposed language of Action Item including any timelines for completion:
<p>Add to the description under strategic action one:</p> <p>People with disabilities who are leaving corrections facilities face particular challenges. They often have strict limitations in where they can live because of their legal status and responsibilities to specific community supervision. If an individual is not connected with appropriate resources, their release from prison may be delayed, or they may fail the conditions or their supervision and return to prison. Community facilities more frequently deny placement for people with disabilities who have a felony history, particularly if community notification is mandated.</p> <p>Add to timeline under strategic action one:</p> <p>Specific timelines related to DOC corrections facilities:</p> <ul style="list-style-type: none"> • By December 31, 2014 develop a process to track the number of inmates with disabilities who have a projected release data and have been unable to secure an appropriate release plan due to lack of available and appropriate community resources and where that projected release date has been extended to allow additional time to develop a release plan. • By January 6, 2015 propose legislative initiative to fund the tracking above and will be implementing the tracking system as soon as funding is available. • By January 1, 2017 use data to identify trends and gaps in services and work with other state agencies to address these gaps and modify the Olmstead Plan as needed.

COURT MONITOR DECISION:	DENIED; MODIFICATION REQUIRED
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This proposed modification addresses the situation of people with disabilities leaving prison. This is a worthy addition to the Plan; without considering this issue, the Plan would be inadequate. However, the proposed modification a) speaks only to tracking inmates and identifying service gaps (even though the introductory paragraph speaks to those gaps already) and b) the timelines would have it take 2 ½ years until the beginning of addressing the gaps. This proposed modification should be modified to ensure by mid-2015 establishment of measureable goals related to demonstrating benefits to the individuals intended to be served.

In addition, this proposal regarding Corrections does not address at all *Olmstead* issues which arise within the prison setting (e.g., mental health care, treatment of inmates with developmental disabilities, protection of vulnerable inmates from aggression, care of individuals with HIV/AIDS). The proposed modification should be modified by mid-2015 to ensure establishment of measureable goals related to demonstrating benefits to the individuals served.

Modification Request No. 2014-17

Olmstead Plan Action Item Code:	HS2A
Action Item Page Number:	42

Reason for requested modification:
The proposed language requires measuring permanency in housing and destination after leaving housing as key indicators. This language was recommended for inclusion by the mental health advocacy groups.

Current language for Action item including current date set for completion:
By December 31, 2014 a baseline will be established and targets for future years determined addressing the number of new affordable housing opportunities created compared to the previous 5 years' average, the number of people with disabilities accessing affordable housing opportunities in the community, and the number of people with disabilities with their own lease.

Proposed language of Action Item including any timelines for completion:
By December 31, 2014 a baseline will be established and targets for future years determined addressing: <ul style="list-style-type: none"> • the number of new affordable housing opportunities created compared to the previous 5 years' average; • the number of people with disabilities accessing affordable housing opportunities in the community; • the number of people with disabilities with their own lease; and • for people who move to more integrated settings, length of stay in housing and destination after leaving new housing setting will be tracked.

COURT MONITOR DECISION:	GRANTED WITH MODIFICATION
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This proposed modification would add to the baseline a measure of length of stay in housing; the good cause shown is the benefit of thus measuring permanency in housing. Apart from that, the phrase “targets for future years” must be changed to “measureable goals for future years, goals which are related to demonstrating benefits to the individuals intended to be served,” for consistency with the fundamental Olmstead Plan requirement that there be measureable goals.

Modification Request No. 2014-18

Olmstead Plan Action Item Code:	New Action Items related to HS3C
Action Item Page Number:	43

Reason for requested modification:
The Olmstead Plan requires the expansion of existing individual housing options. The proposed language requires the examination of all current and potential methods of providing housing supports and funding options.

Current language for Action item including current date set for completion:
New language

Proposed language of Action Item including any timelines for completion:
<ul style="list-style-type: none"> • By June 30, 2015 evaluate all current and potential methods of funding housing and support services. • By February 22, 2016 prepare proposals as needed for 2016 legislative session.

COURT MONITOR DECISION:	DENIED
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Acknowledging that the Olmstead Plan requires the expansion of existing individual housing options, the proposal is that proposals for legislative actions be presented in almost two years (2016). No good cause is suggested for spending two years evaluating possible methods and funding for such expansion.

Modification Request No. 2014-19

Olmstead Plan Action Item Code:	TR1B
Action Item Page Number:	48

Reason for requested modification:
The Olmstead Plan calls for increased coordination across multiple agencies to improve individual access to transportation. The proposed language specifically identifies non-emergency protected transportation as a component of this process. This change is meant to address the use of law enforcement or ambulance to transport individuals with mental illnesses to the hospital. This language was recommended for inclusion by the mental health advocacy groups.

Current language for Action item including current date set for completion:
By September 30, 2014 review administrative practices and implement necessary changes to encourage broad cross agency coordination.

Proposed language of Action Item including any timelines for completion:
By September 30, 2014 review administrative practices and implement necessary changes to encourage broad cross agency coordination, including non-emergency protected transportation.

COURT MONITOR DECISION:	GRANTED
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Good cause is shown. An issue in this litigation has been the use of law enforcement to transport individuals with mental illness and developmental disabilities to the hospital. The Court Monitor reads the proposed additional phrase (“non-emergency protected transportation”) to refer to potential non-police transportation. Implementation by September 30, 2014 date would be timely.

Modification Request No. 2014-20

Olmstead Plan Action Item Code:	Supports and Services: Strategic Action one #1 and #4
Action Item Page Number:	52

Reason for requested modification:
The purpose of this language is to clarify that an individual may choose to involve persons other than family or legal representatives in decision making and to include education to those areas where the state must make best efforts in the provision of options for living and working. This language was recommended for inclusion by the mental health advocacy groups.

Current language for Action item including current date set for completion:
1) Each person and the person's family and/or legal representative shall be permitted to be involved in any evaluation, decision-making and planning processes, to the greatest extent practicable, using whatever communication method the person prefers. 4) The state shall undertake best efforts to provide each person with reasonable alternatives for living and working.

Proposed language of Action Item including any timelines for completion:
1) Each person, the person's family and/or legal representative, and any others chosen by the person shall be permitted to be involved in any evaluation, decision-making and planning processes, to the greatest extent practicable, using whatever communication method the person prefers. 4) The state shall undertake best efforts to provide each person with reasonable alternatives for living, working, and education.

COURT MONITOR DECISION:	GRANTED
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Good cause is shown for both modifications. First, it is consistent with person-centered principles that each person may choose others to participate in evaluations, decision-making and planning. Second, adding "education" to the domains for which alternatives are offered takes into account both adult and school-age learners, and benefits those who may not be working.

Modification Request No. 2014-21

Olmstead Plan Action Item Code:	Change to description language Supports and Services: Strategic Action Two and New Action items related SS2A
Action Item Page Number:	53

Reason for requested modification:
The proposed language identifies day training and prevocational settings as examples of segregated settings. Provides background information on the need for expanding the requirements of the Olmstead Plan acknowledging particular needs of individuals with disabilities in or leaving prison, and requires specific provisions on the application of five transition principles to individuals going to the most integrated from the five identified institutional settings.

Current language for Action item including current date set for completion:
<p>Over their lifetimes, people living with a disability will pass through a number of transition points, which shift the way supports and services are provided. These are critical junctures during which understanding options and assuring good coordination between all involved are necessary to avoid disconnects which could possibly put people at higher risk for going into more segregated and regimented settings. Leaving a hospital, nursing home, institution for mental disease (IMD) or intermediate care facility for people with developmental disability (ICF/DD) are examples of transitions from segregated settings. Another transition is leaving the correctional system and going to community living. Desirable outcomes of effective transitions include: good planning to understand what is important to people as well as for people, and the future they would like; timely transitions; support to live in the most integrated and inclusive setting; and, the right services at the right time to support people in successfully implementing their plans.</p> <p>Timeline:</p> <ul style="list-style-type: none"> By January 31, 2014 the state will create a team of state agency and community members to develop protocols and processes to facilitate successful transitions, problem-solve and reduce barriers that limit individuals' ability to live in the most integrated setting. These protocols and processes will include the five principles above. The protocols and processes will support individuals moving to the most integrated setting from Intermediate Care Facilities for Persons with Developmental Disabilities (ICF/DD), people under 65 in nursing homes for more than 90 days, Anoka Metro Regional Treatment Center, Minnesota Security Hospital and Minnesota Specialty Health System (MSHS)-Cambridge.

Proposed language of Action Item including any timelines for completion:
<p>Over their lifetimes, people living with a disability will pass through a number of transition points, which shift the way supports and services are provided. These are critical junctures during which understanding options and assuring good coordination between all involved are necessary to avoid disconnects which could possibly put people at higher risk for going into more segregated and regimented settings. Leaving a hospital, nursing home, institution for mental disease (IMD) or intermediate care facility for people with developmental disability (ICF/DD), Day Training and Habilitation Services (DT&H) or a Pre-Vocational setting are examples of transitions from segregated settings. Another transition is leaving the correctional system and going to community living. Desirable outcomes of effective transitions include: good planning to understand what is important to people as</p>

well as for people, and the future they would like; timely transitions; support to live in the most integrated and inclusive setting; and, the right services at the right time to support people in successfully implementing their plans.

Timeline:

Develop and implement protocols and processes to support individuals moving to the most integrated setting from Intermediate Care Facilities for Persons with Developmental Disabilities (ICF/DD), people under 65 in nursing homes for more than 90 days, Anoka Metro Regional Treatment Center, Minnesota Security Hospital and Minnesota Specialty Health System (MSHS)-Cambridge:

- By January 31, 2014 the state will create a team of state agency and community members to develop protocols and processes to facilitate successful transitions, problem-solve and reduce barriers that limit individuals' ability to live in the most integrated setting. These protocols and processes will include the five principles above.
- **By June 30, 2014 the state will begin implementation of the protocols and processes.**
- **By January 1, 2015 the protocols and processes developed above will be fully implemented across the five settings.**
- **By January 31, 2015 determine a method to measure and track whether individuals transitioning from segregated settings were able to access the most integrated settings and have achieved stability in those settings.**

COURT MONITOR DECISION:

GRANTED WITH MODIFICATION

- **Good cause is shown for adding acknowledgement of the transition of individuals with disabilities from the correctional system to the community. The timeline should be modified to ADD actions in that regard.**
- **Good cause is shown for adding detail on planning for transitions from the identified facilities.**
- **However, the modification lacks measureable goals for what "fully implemented" means under the January 1, 2015 action, and under the January 31, 2015 action. The measureable goals must be related to demonstrating benefits to the individuals intended to be served. These should be added.**

Modification Request No. 2014-22

Olmstead Plan Action Item Code:	New Action items related SS2F
Action Item Page Number:	54

Reason for requested modification:
The Olmstead Plan requires the state to establish timelines to transition individuals from the Minnesota Security Hospital to the most integrated setting. The proposed language sets a timeline to increase the monthly rate of discharges over the next four years.

Current language for Action item including current date set for completion:
New language

Proposed language of Action Item including any timelines for completion:
<p>For individuals in Minnesota Security Hospital:</p> <ul style="list-style-type: none"> Beginning April 22, 2014 MSH will ensure and report to the subcabinet every two months regarding progress on increase in discharges, timeliness of discharge processes and readmissions within six months of discharge. Minnesota Security Hospital will increase the average monthly discharge rates according to the following timeline: <ul style="list-style-type: none"> By December 31, 2014 increase average monthly discharge rates from 8 individuals per month, to 9 individuals per month (2.4% of average monthly total census). By December 31, 2015 increase average monthly discharge rates from 9 individuals per month, to 10 individuals per month (2.6% of average monthly total census). By December 31, 2016 increase average monthly discharge rates from 10 individuals per month, to 11 individuals per month (2.9% of average monthly total census). By December 31, 2017 increase average monthly discharge rates from 11 individuals per month, to 12 individuals per month (3% of average monthly total census). <p>New footnote stating: persons committed as Mentally Ill & Dangerous, discharges can only occur when the person meets the provisional discharge and discharge standards under Minn. Stat. 253B.18, subd. 7, subd. 15, and only after a favorable recommendation by a majority of the special review board and/or a favorable decision by the judicial Appeal panel.</p>

COURT MONITOR DECISION:	GRANTED WITH MODIFICATION
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The proposed modification would provide measureable goals for discharge from the Minnesota Security Hospital. In that respect, good cause is shown. The following details should be addressed in modifying the proposed language:

- In the first paragraph (on what is reported to the subcabinet), “admissions” numbers should be added to the list, as well as deaths, so that all changes in census can be assessed.
- It is unclear whether the measureable goal will be the number of individuals discharged, OR the percentage of average daily census. Due to admissions and deaths during the time period, these two possible goal measurements may be different.

- **These Actions do not include or reference a requirement that discharges must be to the most integrated setting and accomplished using person-centered principles and processes.**
- **The footnote should be deleted. There is no need to recite a statute's terms here. Also, the statutory provisions may change.**

Modification Request No. 2014-23

Olmstead Plan Action Item Code:	SS2G and SS2I
Action Item Page Number:	54

Reason for requested modification:

The Olmstead Plan requires planned movement of individuals from segregated settings to the most integrated. This proposed language requires the planning to be informed by how other states have organized to achieve these transitions and to require these moves to conform to the protocols and practices required earlier in the Plan.

Current language for Action item including current date set for completion:

For Individuals in other segregated settings:

- By September 30, 2014 DHS will identify a list of other segregated settings, how people are served in those settings, and how many people can be supported in more integrated settings. Based upon these numbers, DHS will establish targets and timelines for moving those individuals to the most integrated settings.
- By September 30, 2015 DHS will initiate the movement of individuals in other segregated settings to the most integrated setting in accordance within the established timelines.

Proposed language of Action Item including any timelines for completion:

For Individuals in other segregated settings:

- By September 30, 2014 DHS will identify a list of other segregated settings, how people are served in those settings, and how many people can be supported in more integrated settings. Based upon these numbers, **and reviewing other states plans for developing most integrated setting for where people work and live**, DHS will establish targets and timelines for moving those individuals to the most integrated settings.
- By September 30, 2015 DHS will initiate the movement of individuals in other segregated settings to the most integrated setting in accordance within the established timelines. **Additionally the movement of individuals will be in accordance with the protocols and processes that developed using the five principles described on page 53.**

COURT MONITOR DECISION:

GRANTED WITH MODIFICATION

There is good cause to learn from other state's plans under Olmstead and similar initiatives, although the subcabinet and DHS already have the benefit of the extensive work in this regard by the Olmstead Committee. There is also good cause to ensure that the movement of individuals to the most integrated settings be in accordance with the processes developed under the Plan. What is missing is a) the "targets" term in the first paragraph should be replaced with "measureable goals related to demonstrating benefits to the individuals intended to be served," and a deadline added for when those measureable goals will be established, and b) the actual movement goals should be set forth in measureable terms.

Modification Request No. 2014-24

Olmstead Plan Action Item Code:	Supports and Services: Strategic Action Three (first paragraph)
Action Item Page Number:	54

Reason for requested modification:
The purpose of this language is to clarify that use of restraint or seclusion has proven ineffective in reducing the occurrence of problem behaviors

Current language for Action item including current date set for completion:
An essential component of quality of life is being treated with dignity and respect. Minnesota is committed to supporting people through the use of positive practices, and prohibitions on use of aversive and restrictive procedures. Implementation of this vision will require a culture change throughout the service system, reinforcing positive skills and practices and replacing practices which may cause physical, emotional, or psychological pain or distress. This new culture and standards to evaluate it will include:

Proposed language of Action Item including any timelines for completion:
An essential component of quality of life is being treated with dignity and respect. Minnesota is committed to supporting people through the use of positive practices, and prohibitions on use of aversive and restrictive procedures. There is no evidence that using restraint or seclusion is effective in reducing the occurrence of the problem behaviors that frequently precipitate the use of such techniques. There is strong evidence that positive approaches and planning that builds on the strengths and interests of the person are effective. Implementation of this vision will require a culture change throughout the service system, reinforcing positive skills and practices and replacing practices which may cause physical, emotional, or psychological pain or distress. This new culture and standards to evaluate it will include:

COURT MONITOR DECISION:	GRANTED
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Given the prominence of elimination of restraints and seclusion under the Plan, there is good cause to add these provisions summarizing the professional evidence regarding those practices.

Modification Request No. 2014-25

Olmstead Plan Action Item Code:	SS3K
Action Item Page Number:	56

Reason for requested modification:
The Olmstead Plan requires the provision of early intervention for individuals at risk of civil commitment. The proposed language further expands the early intervention to individuals at risk of experiencing a crisis. This language was recommended for inclusion by the mental health advocacy groups. This language was recommended for inclusion by the mental health advocacy groups.

Current language for Action item including current date set for completion:
By July 1, 2015 crisis services, including diversion and early intervention services, will be made available to any person at risk of civil commitment as Developmentally Disabled, Mentally Ill, or Mentally Ill and Dangerous. The purpose of this intervention is to stabilize the person's situation and avoid the use of civil commitment.

Proposed language of Action Item including any timelines for completion:
By July 1, 2015 crisis services, including diversion and early intervention services, will be made available to any person in need of these supports and at risk of experiencing a crisis situation.

COURT MONITOR DECISION:	GRANTED WITH MODIFICATION
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The proposed modification broadens the current language by making crisis services available whenever there is a risk of a crisis situation. However, without explanation, the proposed modification omits the last sentence of the current language; that sentence should be returned to the Plan; it reads: "The purpose of this intervention is to stabilize the person's situation and avoid the use of civil commitment."

Modification Request No. 2014-26

Olmstead Plan Action Item Code:	SS4A and new action items related to SS4A Development of CFSS
Action Item Page Number:	57

Reason for requested modification:
<p>The Olmstead Plan requires that the state replace the Personal Care Attendant (PCA) services with a more flexible personal support service, with an emphasis on self-direction, called Community First Services and Supports (CFSS). On January 1, 2014 the state submitted a state plan to CMS to replace the personal care assistance (PCA) programs CMS has not authorized this change. The proposed language modifies the due date to require state action on developing an implementation plan within 30 days of CMS approval of the request.</p> <p>Additionally the proposed language requires the state to evaluate how services meet individual's needs, in particular those individuals with mental illnesses who may qualify for the new CFSS program. This language was recommended for inclusion by the mental health advocacy groups.</p>

Current language for Action item including current date set for completion:
By April 1, 2014 replace the personal care assistance (PCA) programs with a more flexible personal support service, with an emphasis on self-direction, called Community First Services and Supports (CFSS).

Proposed language of Action Item including any timelines for completion:
<p>Implement Community First Services and Supports:</p> <ul style="list-style-type: none"> • Within thirty days of federal approval, the state will establish an implementation plan including specific actions and timelines. • By January 15, 2015 DHS will develop a plan to evaluate how current services meet the needs of people who use them and will make funding proposals to the legislature if necessary to conduct the evaluation and develop the plan. The plan should leverage existing evaluations and data, take into account all services, including access to services such as Community First Services and Supports (CFSS), and result in recommendations for service changes.

COURT MONITOR DECISION:	TAKEN UNDER ADVISEMENT
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One proposed change is to replace the deadline date, April 1, 2014, with an indeterminate "[w]ithin thirty days of federal approval" of a January 1, 2014 submission of a "state plan to CMS to replace the personal care assistance (PCA) programs [;] CMS has not authorized this change." However, CMS on October 18, 2013 approved the Minnesota Reform 2020 waiver which includes states, "The Community First Services and Supports Program, redesigns the state plan Personal Care Assistance Services (PCA) benefit and expands self-directed options in order to maintain and increase independence." (Oct. 18, 2013 update). The Court Monitor is not informed in this Modification Request of whether or how the January 1, 2014 plan to CMS affects the 2013 approval of the PCA change. Therefore, no decision can be made on the first element of the Modification Request (change in date).

The second proposed change is to add a requirement to develop an evaluation plan and make funding proposals by 2015. Nothing in this proposed new paragraph would establish any measureable goals for actual services to benefit individuals. Absent inclusion of such goals, this change is likely to be denied when this Modification Request is resubmitted.

Modification Request No. 2014-27

Olmstead Plan Action Item Code:	New Action Item after SS2I
Action Item Page Number:	54

Reason for requested modification:
The proposed language requires the state to initiate early action for release planning for individuals leaving prison. The proposed language also directs the state to seek funding for an electronic health record to aid in release planning.

Current language for Action item including current date set for completion:
New language

Proposed language of Action Item including any timelines for completion:
<p>New Paragraph in the description section: There are challenges in assuring the availability of timely and appropriate community services at the time people are ready to leave prison; these challenges can include lack of housing, need for specialized provider resources and capacity, and neighborhood resistance. The DOC will identify individuals who are ready to leave prison and work with DHS and counties to develop appropriate transition plans as people are ready to move into the community. Another challenge for this population is the difficulty of sharing health information across systems to support continuity of care. All health care systems either have shifted or are shifting to electronic health records systems, and the Department of Corrections has completed initial preparation for adoption of electronic health records to better support integration for people with disabilities leaving corrections facilities.</p> <p>Timeline: For individuals being released from a state correctional facility:</p> <ul style="list-style-type: none"> • By January 1, 2016 develop a process to refer to and work with county social services on residential options for releasing inmates with disabilities starting three to six months prior to release. • By January 6, 2015 develop a legislative initiative to fund an electronic health system.

COURT MONITOR DECISION:	GRANTED WITH MODIFICATION
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The proposal is to work with individuals who are ready to leave prison and work with DHS and counties to develop appropriate transitions plans. Also proposed is to develop a legislative initiative to fund an electronic health system.

However, the actions do not include implementation of the transition plans, or measureable goals for the individuals intended to benefit. On the transition plans, 2016 is proposed as the deadline to “develop a process” with no date set for implementation of the process. On the electronic health system, 2015 is proposed as the deadline to “develop a legislative initiative” with no date set for implementation of the initiative. When these deficiencies are adequately remedied, the modification may be granted.

Modification Request No. 2014-28

Olmstead Plan Action Item Code:	Supports and Services: Strategic Action Four
Action Item Page Number:	56

Reason for requested modification:
The proposed language provides context for understanding the Olmstead Plan. The language identifies assistive technology and the conversion of the Personal Care Attendant program to the Community First Supports and Services program as needed changes to enhance community access and integration.

Current language for Action item including current date set for completion:
<p>Second Paragraph - Sometimes, when the service that would best fit an individual's need is not available, that person will access an alternative service. This can then create pressure on the alternative service, making it difficult for people who need that service to get it. By understanding people's needs better, and distributing the resources effectively, more people should be able to be served, and served well. If service gaps are understood, effort can be made to address them.</p> <p>Third Paragraph - Flexibility in services allows individuals and families with children with disabilities to best obtain their desired outcomes. By increasing flexibility in state medical assistance plan services, there will be less pressure on services that have growth limits, such as home and community-based waiver supports and services.</p>

Proposed language of Action Item including any timelines for completion:
<p>Second Paragraph - Sometimes, when the service that would best fit an individual's need is not available, that person will access an alternative service. This can then create pressure on the alternative service, making it difficult for people who need that service to get it. By understanding people's needs better, and distributing the resources effectively, more people should be able to be served, and served well. If service gaps are understood, effort can be made to address them. Encouraging innovations, such as the use of assistive technology, can contribute to increased outcomes and quality of life, and effectively use available resources.</p> <p>Third Paragraph - Flexibility in services allows individuals and families with children with disabilities to best obtain their desired outcomes. By increasing flexibility in state medical assistance plan services, such as the conversion of the PCA program to a more flexible Community First Service and Supports, development of an autism early intervention benefit, and state wide availability of mental health services, there will be less pressure on services that have growth limits, such as home and community-based waiver supports and services.</p>

COURT MONITOR DECISION:	GRANTED
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The proposed addition of language related to assistive technology furthers the benefits to be extended to individuals under the Plan, and increases access to services. Good cause is shown.

Modification Request No. 2014-29

Olmstead Plan Action Item Code:	New Action Item after SS4B
Action Item Page Number:	57

Reason for requested modification:
The proposed language requires a single state plan for expanding the availability and use of assistive technology.

Current language for Action item including current date set for completion:
New language

Proposed language of Action Item including any timelines for completion:
By December 31, 2014 develop a plan to expand the use of assistive technology in Minnesota to increase access to integrated settings. The plan will specifically include an evaluation of Medicaid funding possibilities, a plan for agency collaboration regarding assistive technology, and a plan for coordinated refurbishment/reuse of assistive technology.

COURT MONITOR DECISION:	GRANTED WITH MODIFICATION
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Good cause is shown for development of a plan to expand the use of assistive technology. The request must be modified to include measureable goals for actual services to benefit individuals.

Modification Request No. 2014-30

Olmstead Plan Action Item Code:	New paragraph and action items after SS4B
Action Item Page Number:	57

Reason for requested modification:
The proposed language provides background information and requires the development of a plan for Forensic Assertive Community Treatment services and seeks necessary funding.

Current language for Action item including current date set for completion:
New language

Proposed language of Action Item including any timelines for completion:
<p>New Paragraph - Transition into the community from prison is difficult, much more so if the inmate has a disability. A Forensic Assertive Community Treatment (FACT) team would work collaboratively with DOC Behavioral Health Release Planners and assist with a smooth transition into the community. These individuals will have the necessary knowledge base to work with complex behaviors, including criminogenic behaviors. The FACT team will develop necessary relationships to work with community resources, and assist with the transition of people from prison to community. They will have the capacity to familiarize themselves with appropriate resources, and assist community staff on complex behaviors when necessary.</p> <ul style="list-style-type: none"> • By December 31, 2014 develop a plan to establish a FACT team, which is equipped to navigate community resources and has the knowledge base to address inmate criminogenic needs. This plan will include identifying composition of the team, location, and funding options. • By January 6, 2015 develop a legislative initiative to fund the FACT teams.

COURT MONITOR DECISION:	GRANTED WITH MODIFICATION
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Good cause is shown for increasing professional capacity in the community to assist in transition of individuals from prison to the community. The proposed modification, however, does not include measureable goals for actual services to benefit individuals. Also, the proposal should clarify the relationship of the FACT team, to the other proposed modifications to the Plan regarding transition of former prisoners to the community.

Modification Request No. 2014-31

Olmstead Plan Action Item Code:	Lifelong Learning and Education: Strategic Action One (first paragraph)
Action Item Page Number:	59

Reason for requested modification:
The purpose of this language is to clarify that the use of prone restraint in schools will end by 8-1-15.

Current language for Action item including current date set for completion:
Work with districts and other stakeholders to reduce the use of restrictive procedures and also provide further recommendations on how to further reduce these procedures and eliminate the use of prone restraints in schools.

Proposed language of Action Item including any timelines for completion:
Work with districts and other stakeholders to reduce the use of restrictive procedures and also provide further recommendations on how to further reduce these procedures and eliminate the use of prone restraints in schools. Recommendations on collecting summary data from school districts on the use of reasonable force as defined in Minnesota Statute 121A.582 will also be developed by working with districts and other stakeholders. Minnesota Statutes §125A.0942 subdivision 3 (8), requires that school districts end the use of prone restraints with children ages five or older by August 1, 2015.

COURT MONITOR DECISION:	GRANTED WITH MODIFICATION
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The current language requires that efforts be made to recommend “eliminate[ion of] the use of prone restraints in schools” without qualification as to age. The proposed modification adds reference to development of recommendations to that end (with no deadline) and states that

Minnesota Statutes §125A.0942 subdivision 3 (8), requires that school districts end the use of prone restraints with children ages five or older by August 1, 2015.

However, contrary to the quoted statutory language, the statute cited does not appear to “require” elimination of prone restraint; rather, it permits prone restraint under certain conditions (“until August 1, 2015, a school district may use prone restraints with children age five or older if. . .”), does not speak to elimination after that date, and does not appear to speak to prone restraint on younger children. Good cause is not shown for this modification. The request should be resubmitted and, maintaining the intention to eliminate the use of prone restraint in schools, should clarify the extent of the elimination, and include measureable goals for actual change to benefit individuals, with a prompt single deadline.

Modification Request No. 2014-32

Olmstead Plan Action Item Code:	Lifelong Learning and Education: Strategic Action Three (first paragraph)
Action Item Page Number:	60

Reason for requested modification:
The purpose of this language is to clarify that this provision also applies to students with mental illnesses. This language was recommended for inclusion by the mental health advocacy groups.

Current language for Action item including current date set for completion:
Students will have interagency supports and services to access integrated employment options before exiting high school.

Proposed language of Action Item including any timelines for completion:
Students with disabilities, including those with mental illnesses , will have interagency supports and services to access integrated employment options before exiting high school.

COURT MONITOR DECISION:	GRANTED WITH MODIFICATION
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Although it ought to be clear without the change, the addition of the phrase “with disabilities” after the first word, “Students,” is permitted. However, the additional phrase “including those with mental illnesses” is unnecessary and may not be added; singling out one type of disability would lead to confusion and is contrary to the structure of the Plan.

Modification Request No. 2014-33

Olmstead Plan Action Item Code:	ED3C
Action Item Page Number:	60

Reason for requested modification:
The purpose of this language is to clarify that this provision applies to students with mental illnesses. This language was recommended for inclusion by the mental health advocacy groups.

Current language for Action item including current date set for completion:
By June 30, 2016 a MOU will be developed with DEED, DHS and MDE for the purpose of developing a Return on Investment (ROI) matrix which demonstrates that by using evidence-based employment practices such as Customized Employment, Project SEARCH, etc., there will be an increase in integrated employment outcomes for students with disabilities.

Proposed language of Action Item including any timelines for completion:
By June 30, 2016 a MOU will be developed with DEED, DHS and MDE for the purpose of developing a Return on Investment (ROI) matrix which demonstrates that by using evidence-based employment practices such as Customized Employment, Project SEARCH, etc., there will be an increase in integrated competitive employment outcomes for students with disabilities, including those with mental illnesses.

COURT MONITOR DECISION:	DENIED
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The additional phrase “including those with mental illnesses” is unnecessary and may not be added; singling out one type of disability would lead to confusion and is contrary to the structure of the Plan. No good cause is shown.

Modification Request No. 2014-34

Olmstead Plan Action Item Code:	Lifelong Learning and Education: Strategic Action Four (first paragraph) and ED4A.1
Action Item Page Number:	61

Reason for requested modification:
The proposed language clarifies that these provisions apply to students with mental illnesses. This language was recommended for inclusion by the mental health advocacy groups.

Current language for Action item including current date set for completion:
<p>First paragraph - Using baseline data from the Minnesota Post School Outcome Survey there will be an increase in the number of students with disabilities enrolling into postsecondary education and training programs. Resources will be developed and provided to parents, schools, and students with disabilities to facilitate and support enrollment in postsecondary settings</p> <ul style="list-style-type: none"> Based on the Minnesota Post School Outcome Survey data, beginning September 1, 2014 and each subsequent year, there will be an increase of a minimum of 50 students with disabilities per year entering integrated postsecondary education and training programs within one year of exiting secondary education.

Proposed language of Action Item including any timelines for completion:
<p>First Paragraph - Using baseline data from the Minnesota Post School Outcome Survey⁵⁵ there will be an increase in the number of students with disabilities, including those with mental illnesses, enrolling into postsecondary education and training programs. Resources will be developed and provided to parents, schools, and students with disabilities to facilitate and support enrollment in postsecondary settings.</p> <ul style="list-style-type: none"> Based on the Minnesota Post School Outcome Survey data, beginning September 1, 2014 and each subsequent year, there will be an increase of a minimum of 50 students with disabilities, including those with mental illnesses, per year entering integrated postsecondary education and training programs within one year of exiting secondary education.

COURT MONITOR DECISION:	DENIED
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The additional phrase “including those with mental illnesses” is unnecessary and may not be added; singling out one type of disability would lead to confusion and is contrary to the structure of the Plan. No good cause is shown.

Modification Request No. 2014-35

Olmstead Plan Action Item Code:	Lifelong Learning and Education: Strategic Action Five
Action Item Page Number:	61

Reason for requested modification:
The purpose of this language is to clarify that the provision applies to students in out of state juvenile corrections placement

Current language for Action item including current date set for completion:
Strategic Action Five- Action Five: Return students to resident district or more integrated setting.

Proposed language of Action Item including any timelines for completion:
Strategic Action Five - Action Five: Return students with disabilities who are placed out of state or in juvenile corrections to resident district or more integrated setting.

COURT MONITOR DECISION:	GRANTED WITH MODIFICATION
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Good cause is shown to clarify characteristics of the students who are to benefit from this Action. Modification is necessary to change “more integrated” to “most integrated” and to include measureable goals for actions to be taken to benefit the students.

Modification Request No. 2014-36

Olmstead Plan Action Item Code:	HC1A and new related action item
Action Item Page Number:	63

Reason for requested modification:
The proposed language refines the requirements for baseline data and modifies the due date to allow sufficient time to collect, analyze and report out data for the establishment of an accurate baseline.

Current language for Action item including current date set for completion:
By January 1, 2015 establish baseline information about primary care teams across Minnesota that are able to provide integrated, person-centered care for persons with disabilities; establish timelines to increase the number.

Proposed language of Action Item including any timelines for completion:
<ul style="list-style-type: none"> • By December 31, 2015 develop definitions, establish training framework, and modify data collection mechanisms to allow collection of information on person with disabilities receiving care in certified health care homes in order to determine healthcare outcomes and patient satisfaction. • By December 31, 2016 establish baseline information about primary care teams across Minnesota that are able to provide integrated, primary care for person with disabilities that is customized and drive by the individual; establish timelines to increase the number.

COURT MONITOR DECISION:	DENIED
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The proposed modifications are to extend by an additional year the establishment of “baseline information about primary care teams” and also to add a date to establish a training framework and modify data collection mechanisms regarding care in certified health care homes. Although not highlighted in the proposed language, it is suggested to substitute a new phrase for “person-centered care.”

Aside from the *ipse dixit* that “we need more time because we need more time,” no good cause is shown for a one year extension for baseline information on primary care teams. Also the primary care team effort does not include measureable goals for actual services to benefit individuals. While good cause is evident for collection of information about certified health care homes, that change does not include measureable goals for actual services to benefit individuals.

Modification Request No. 2014-37

Olmstead Plan Action Item Code:	HC1D, new action items related to HC1D
Action Item Page Number:	64

Reason for requested modification:
The proposed language moves the due date forward six months to allow sufficient time to seek funding through legislative approval in 2015. The proposal also establishes annual targets for enrollment in the service model.

Current language for Action item including current date set for completion:
<ul style="list-style-type: none"> By December 31, 2014 the framework will be implemented and some people with serious mental illness will have access to care through this model.

Proposed language of Action Item including any timelines for completion:
<ul style="list-style-type: none"> By July 1, 2015 the framework will be implemented. By July 1, 2016 15% of eligible individuals with serious mental illness will choose to access care through this model. By July 1, 2017 20% of eligible individuals with serious mental illness will choose to access care through this model. By July 1, 2018 25% of eligible individuals with serious mental illness will choose to access care through this model.

COURT MONITOR DECISION:	GRANTED
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Good cause is shown for a six month deadline adjustment and for the addition of measureable goals with deadlines for achievement.

Modification Request No. 2014-38

Olmstead Plan Action Item Code:	HC1E
Action Item Page Number:	64

Reason for requested modification:
The proposed language extends the due date six months to allow for sufficient time to develop the reporting mechanism, train providers, and implement the quality measures.

Current language for Action item including current date set for completion:
By December 31, 2014 the state will develop the reporting mechanism necessary to require designated providers to report on all federally mandated quality measures and align these with the Olmstead Plan.

Proposed language of Action Item including any timelines for completion:
By July 1, 2015 the state will develop the reporting mechanism necessary to require designated providers to report on all federally mandated quality measures and align these with the Olmstead Plan.

COURT MONITOR DECISION:	GRANTED WITH MODIFICATION
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Good cause is shown for the six month extension. The alignment of federal quality measures with the Olmstead Plan, across agencies, is a complex endeavor. In addition, this Action should be modified to include measureable goals for actual benefits to individuals.

Modification Request No. 2014-39

Olmstead Plan Action Item Code:	Healthcare and Healthy Living: Strategic Action Two (first paragraph)
Action Item Page Number:	64

Reason for requested modification:
The proposed language removes the reference to the Statewide Health Improvement Program and broadens language to allow alternative methods to achieve the outcome.

Current language for Action item including current date set for completion:
<p>The Statewide Health Improvement Program (SHIP) will be modified to address the whole population including people with disabilities.</p> <p>To ensure that people with disabilities maintain good health and to prevent secondary health conditions, the state will evaluate and expand SHIP. This will result in programs, policies and organizational practices of SHIP addressing the whole population at the community level.</p>

Proposed language of Action Item including any timelines for completion:
Health messaging will specifically include people with disabilities.

COURT MONITOR DECISION:	GRANTED WITH MODIFICATION
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There is good cause to broaden the language and not tie it to a specific program. The Action should be modified to include measureable goals for actual services to benefit individuals.

Modification Request No. 2014-40

Olmstead Plan Action Item Code:	HC2A
Action Item Page Number:	65

Reason for requested modification:
The proposed language extends the due date 2 months to allow sufficient time to complete the action.

Current language for Action item including current date set for completion:
By March 31, 2014 develop a plan to ensure that health messaging is targeted to people with all types of disabilities; adopt timelines and measures to ensure ongoing progress.

Proposed language of Action Item including any timelines for completion:
By May 31, 2014 develop a plan to ensure that health messaging is targeted to people with all types of disabilities; adopt timelines and measures to ensure ongoing progress.

COURT MONITOR DECISION:	GRANTED
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Good cause is shown for a modest two month extension of time, which will include measures to ensure progress.

Modification Request No. 2014-41

Olmstead Plan Action Item Code:	HC2E, HC2F.1-2F.2
Action Item Page Number:	66

Reason for requested modification:
The proposed language extends due dates due to data not being available within the existing time frame. The extended due dates will allow sufficient time to secure data for the required collaboration, to produce the assessment module, and to initiate the annual health status reports.

Current language for Action item including current date set for completion:
<ul style="list-style-type: none"> By December 31, 2014 in partnership with the Centers for Disease Control and Prevention, disability advocates, and the academic community develop, test, revise and implement the expanded "disability module" to better assess overall health status of people with disabilities in Minnesota. By December 31, 2015 and annually thereafter, complete health status reports regarding health care outcomes and track policy and organizational practice changes at the community and state levels.

Proposed language of Action Item including any timelines for completion:
<ul style="list-style-type: none"> By September 30, 2016 in partnership with the Centers for Disease Control and Prevention, disability advocates, and the academic community develop, test, revise and implement the expanded "disability module" to better assess overall health status of people with disabilities in Minnesota. By September 30, 2016 and annually thereafter, complete health status reports regarding health care outcomes and track policy and organizational practice changes at the community and state levels.

COURT MONITOR DECISION:	GRANTED
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Good cause is shown in that there will not be data available during the existing timeframe.

Modification Request No. 2014-42

Olmstead Plan Action Item Code:	New Action Items
Action Item Page Number:	66

Reason for requested modification:
The proposed language requires the state to seek funding to develop baseline data on all inmates with disabilities, determine gaps in the existing services, and seek Olmstead Plan modifications to address these gaps.

Current language for Action item including current date set for completion:
New language

Proposed language of Action Item including any timelines for completion:
<p>Specific timelines related to DOC correctional facilities:</p> <ul style="list-style-type: none"> • By December 31, 2014 develop plan to determine the baseline of all inmates with disabilities. • By January 6, 2015 propose legislative initiative to fund the development of a baseline and will begin developing the baseline as soon as funding is available. • By January 1, 2017 conduct an analysis to evaluate program needs and resource allocations and identify gaps. Based upon the analysis, the DOC will identify action steps and modify the Olmstead Plan as needed.

COURT MONITOR DECISION:	DENIED
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This requested modification is for a two and a more than two year process simply to “identify action steps and modify the Olmstead Plan as needed.” Two years is too long to propose further modifications of the Olmstead Plan. It is also unclear why a legislatively-funded baseline is needed to obtain information on people with disabilities in correctional facilities. Any resubmission of this proposal should include measureable goals to benefit individuals in prison, based on reasonably expedited timelines.

Modification Request No. 2014-43

Olmstead Plan Action Item Code:	HC2G, and related new Action Items, HC2H as well as language changes
Action Item Page Number:	66

Reason for requested modification:
<p>The proposed language provides clarification on who will be assessed, adds peer mental health to specialty services, and requires evidenced based mental health care. These changes are accommodating the concerns of the mental health community.</p> <p>The proposed language also clarifies that existing Medical Assistance (MA) data will be used for the initial analysis. This data is available now and most individuals in Minnesota who are at risk of a segregated setting or are in a segregated setting are enrolled in MA. The proposed language requires this assumption to be examined at a later date.</p> <p>The proposed language requires a plan to measure access issues, to seek funding, to establish the baseline, and to measure access issues over time.</p> <p>The proposed language moves the due date out one year to provide sufficient time to seek the resources and establish the baseline.</p>

Current language for Action item including current date set for completion:
<p>The state will conduct a needs assessment to determine where people with disabilities do not have access to dentists, chiropractors, mental health counselors, or specialty providers. Some people with disabilities cannot readily access a dentist, chiropractor, mental health counselor, or specialty providers who can treat them. To make necessary changes, the state will conduct a needs assessment and develop concrete plans to improve healthcare access.</p> <ul style="list-style-type: none"> • By December 31, 2014 establish baseline data for current care (medical, dental, chiropractic and mental health) of people with disability; develop an implementation plan to further assess, develop, and respond. • By August 1, 2015 and biannually thereafter, measure how health care access and service are changing over time. Analyze the data to identify policy, practice and program changes that need to be made so that improvement happens more quickly; establish plans to make these changes. The focus will be on improving outcomes for people with disabilities.

Proposed language of Action Item including any timelines for completion:
<p>The state will conduct a needs assessment to determine where adults and children with disabilities do not have access to dentists, chiropractors, mental health professionals, certified peer specialists (CPS) or specialty providers, with a focus on access to providers needed to assure evidence-based mental health care.</p> <p>Some people with disabilities cannot readily access a dentist, chiropractor, mental health professional, certified peer specialist (CPS) or specialty providers who can treat them. To make necessary changes, the state will conduct a needs assessment and develop concrete plans to improve healthcare access.</p> <ul style="list-style-type: none"> • By December 31, 2014 establish baseline utilization data for current care (medical, dental,

chiropractic and mental health) of people with disability. **Focus will be on Medicaid enrollees, including individuals residing in institutional settings.**

- **By August 1, 2014 develop an implementation plan to further develop assessment approaches to evaluate access to services for people with disabilities and barriers to access.**
- **By January 6, 2015 prepare legislative request for resources necessary to implement assessment approaches to evaluate access to services.**
- **By June 1, 2016 establish baseline access data for current care.**
- **By August 1, 2016 evaluate whether focus on access to Medicaid funded care provides sufficient analysis to identify barriers to access to care for people with disabilities.**
- **By August 1, 2016 and biannually thereafter, measure how health care access and service are changing over time. Analyze the data to identify policy, practice and program changes that need to be made so that improvement happens more quickly; establish plans to make these changes. The focus will be on improving outcomes for people with disabilities.**

COURT MONITOR DECISION:	DENIED
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Good cause is not established for this proposed change. The current language has two deadlines, one in 2014 and one in 2015, the latter of which measures changes in health care and requires planning. The proposed change has five deadlines, extending the measurement/planning for a full year. Also the proposed change requires multiple baseline analysis, ending in 2016 with an evaluation on whether the prior efforts are sufficient to identify barriers to access. The proposal is confusing, somewhat convoluted, and – sharing this inadequacy with the current language – does not provide measureable goals to benefit the beneficiaries of the Plan.

Modification Request No. 2014-44

Olmstead Plan Action Item Code:	CE1B
Action Item Page Number:	70

Reason for requested modification:
The proposed language requires the state to include diverse community groups when consulting with the other stakeholders.

Current language for Action item including current date set for completion:
By December 31, 2014 in consultation with people with disabilities and family members the state will determine the size and scope of peer support and self-advocacy programs. Based on this information the state will set annual goals for progress. Recommendations, including funding and any necessary legislative changes, will be made to the subcabinet.

Proposed language of Action Item including any timelines for completion:
By December 31, 2014 in consultation with people with disabilities, family members, and diverse community groups , the state will assess the size and scope of peer support and self-advocacy programs. Based on this information the state will set annual goals for progress. Recommendations, including funding and any necessary legislative changes, will be made to the subcabinet.

COURT MONITOR DECISION:	GRANTED WITH MODIFICATION
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It is reasonable to include community groups in assessing the size and scope of peer support and self-advocacy programs; good cause is shown. The Action item is ambiguous on the point at which the state will set “annual goals for progress.” The language should be modified to provide that the December 31, 2014 deadline applies to the setting of the annual goals.

Modification Request No. 2014-45

Olmstead Plan Action Item Code:	Quality Assurance – after QA 4A abuse/neglect trends
Action Item Page Number:	30

Reason for requested modification:
The proposed language establishes a quality assurance process and reporting structure to monitor how systems address abuse and neglect. This analysis will result in the adoption of improved practices necessary to improve performance.

Current language for Action item including current date set for completion:
New language being added

Proposed language of Action Item including any timelines for completion:
<p>The Quality Improvement plan will include a coordinated data system and an established process to measure and analyze existing data from abuse reporting systems. Priority will be given to establishing uniform definitions, standards and protocols; assuring transparency to the consumer; tracking trends; identifying problem areas; and aiding in the development of interventions using state of the art technology.</p> <ul style="list-style-type: none"> By September 30, 2015, and annually thereafter, the subcabinet's designee will prepare a report on statewide levels and trends of abuse, neglect, exploitation, injuries, and deaths. The report will include analysis of trends in the amount of time to investigate allegations of abuse and neglect and quality of investigations. (from complaint to disposition).

COURT MONITOR DECISION:	GRANTED WITH MODIFICATIONS
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The addition of this element to Quality Improvement activities is positive. The second paragraph's phrase, "abuse, neglect, exploitation, injuries, and deaths" should be substituted for the word "abuse" in the second line of the first paragraph. Also, the parenthetical phrase "(from complaint to disposition)" should be replaced with "(from complaint to disposition, recommendations and follow-up)."

Modification Request No. 2014-46

Olmstead Plan Action Item Code:	Transportation Action Three
Action Item Page Number:	49

Reason for requested modification:
<p>In April 2010, the Minnesota Department of Transportation issued a comprehensive plan on addressing the requirements of ADA as it pertains to transportation. The plan also requires that it will be updated every 4 years. The next report is due in 2014 and is included in the Olmstead Plan as item TR 3A. The current MNDOT/ADA Transition Plan addresses issues of transportation in greater Minnesota; access issues including sidewalks and other barriers to mobility; and access to government services operated by the Minnesota Department of Transportation.</p> <p>The issue of permitted/prohibited motorized devices is not included in the 2010 transition plan. This issue is addressed in Minnesota Statutes 169.212. https://www.revisor.mn.gov/statutes/?id=169.011&year=2013&keyword_type=all&keyword=Pedestrian https://www.revisor.mn.gov/statutes/?id=169.212&year=2013&keyword_type=all&keyword=Pedestrian</p>

Current language for Action item including current date set for completion:
New language

Proposed language of Action Item including any timelines for completion:
<p>Add the following footnote to the description section in Action three:</p> <p>MnDOT's current ADA transition plan is available here: http://www.dot.state.mn.us/ada/pdf/mndotadatransitionplan.pdf. It contains information about MnDOT's actions to remove barriers and improve transportation access, such as improving intersections and sidewalks.</p>

COURT MONITOR DECISION:	GRANTED. MODIFICATION REQUIRED
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The proposed language adds an acceptable explanatory footnote to MnDOT's current ADA transition plan. The footnote should further include a provision to the effect that "electric personal assistive mobility devices" are permitted to be used on roadways, sidewalks and bicycle paths under Minnesota Statute §169.212.