UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

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

Plaintiffs,

v.

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

Defendants.

Civil No. 09-1775 (DWF/FLN)

Report to the Court: COMMUNITY COMPLIANCE REVIEW

David Ferleger
Court Monitor
Archways Professional Building
413 Johnson Street
Jenkintown, PA 19046
Phone: (215) 887-0123
david@ferleger.com

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Table of Contents

I. Executive Summary

The Court Monitor finds that the State has failed to comply with the transition elements of the Settlement Agreement with regard to provision of adequate and appropriate transition plans, protections, supports, and services consistent with each person's individualized needs. Many factors triangulate to support this conclusion.

There have been positive developments recently, however. The State, through the Department of Human Services, has recognized that it must do more to ensure that the counties comply with the court's mandates. For example, DHS Commissioner Lucinda Jesson has personally conveyed that message to county officials. MSHS-Cambridge over the past year has developed a person centered plan process and template, which can serve as a foundation for state-wide efforts. For the several hundred individuals who left METO/Cambridge under this lawsuit, a special intensive monitoring will be in place to safeguard them in the community.

This report finds that:

1. The Department of Human Services does not effectively ensure that counties and licensed providers were prepared for the implementation of person centered planning and transition plans for individual who transition to the community.
2. County case managers, and the licensed providers serving the individuals, are not informed regarding the existence of the court's orders and the standards under those orders.
3. Former METO/Cambridge residents under county auspices are not being served in compliance with the Court's orders. Counties are failing to implement the person centered planning and transition requirements of the Settlement Agreement. The benefits of fine transition plans developed at MSHS-Cambridge,

with county involvement, are being lost when the individual moves to the community, especially into programs run by provider agencies.

4. The counties' responsibility for non-compliance is significantly moderated by the State's inaction (or delayed action) in responding to the repeated notice by the Court Monitor of the essential need for attention to counties' in implementation of the orders.

5. The consequence of these deficiencies is that individuals with disabilities are being "supported" in community living which is not individualized, does not capitalize on their strengths, does not meet professional standards, and which constricts their choices and freedom. For some, their services are more life-wasting than life-fulfilling.

The situation calls for robust remedial action.[1] Such remedies would appropriately be founded upon orders of the court providing additional relief. The enterprise should be under the leadership of the DHS Commissioner, and must include involvement of counties and provider agencies.

The remedy would best include:

- a zealous initiative with focused committed leadership;
- an integrated, coordinated, state-wide training and implementation effort;
- a program focused on prompt urgent action;
- accountability and monitoring.

Piecemeal action should be avoided. Time-consuming committee and commission work should be minimized if not eliminated.

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[1] The delay in bringing this systemic element in compliance will require an

What should be the scope of remedial action?

On the one hand, the person centered, transition planning and implementation requirements in the Settlement Agreement and the Comprehensive Plan of Action (and remedies for non-compliance) apply only to those individuals who left METO and MSHS-Cambridge.

On the other hand, it would be difficult if not impossible – and certainly impractical – to create a two-class developmental disabilities system, with the METO/Cambridge individuals receiving special attention that others in the community do not receive. The possibility that two clients, living in the same home or working side by side at a job site, would have widely different entitlements is one which ought not come to pass.

On the "third" hand, the parties' joint intention is that the settlement and its implementation will transform services state-wide, having the broadest impact.

The Court Monitor concludes that the extensive community integration effort should be statewide and not confined solely to those discharged from METO/Cambridge. This approach is supported by the parties' early representations. The settlement in this case was accompanied by triumphal pronouncements that it heralded widespread change for "hundreds of thousands" of people and would "set the tone" nationally.[2]

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[2] Order of December 20, 2012 at 8-9 (Dkt. 188) (quoting the transcript of the settlement approval hearing). Plaintiffs stated that the settlement "will benefit hundreds of thousands of people in this state." Plaintiffs also stated that the settlement's "unprecedented comprehensive positive changes [will benefit] not only Class members but all people with developmental disabilities in this state"). Defendants concurred with Plaintiffs and stated:

> And again, it will greatly improve the quality in care of the lives of a large number of persons with disabilities, not only in Minnesota, but we have people that come through Minnesota. And it will impact them, as well. And we think that this agreement will set the tone for other states, as well.

While the scope of the remedial action should be broad, the Court Monitor respectfully suggests that the Court's enforcement authority may reasonably (in the Court's discretion) be limited at this time to the provisions of the Court's orders. That enforcement, nevertheless, would well be informed by the broad failure for more than two years to adequately attend to the systemic issues addressed in this report.

The Court has alerted the State that transition planning is not an afterthought with regard to enforcement. Order of August 28, 2013 (Dkt. 224) at 10 In the same 2013 order, and citing a 2012 order, the Court singled out community integration as a particular concern regarding non-compliance:

> The Court continues to be extremely concerned with the sluggish pace of implementation of the specific terms of the Settlement Agreement and the resulting noncompliance.[5]
>
> Note 5:
> "The Court deems this an opportune and appropriate time to consider the pace of Defendants' implementation of the obligations they undertook both as to the facility and system-wide, including but not limited to community integration under *Olmstead v. L.C.*, ..." Order of November 5, 2012 at 2 (Doc. No. 179) (setting status conference). *See Letter to Parties*, November 12, 2012 (Doc. No. 184) (noting review of pace of implementation).

Order of August 28, 2013 at 10 (Dkt. 224).

* * * *

This report presents the fundamental transition requirements under the Court's orders (Section II). It then explains that transitions to the community, and life in the community, have been a compliance concern for a long time (Section III). The general deficiencies in the community state-wide are summarized (Section IV). Next, the Court Monitor's recent community compliance review and its findings are reported (Section V). Findings and

recommendations round out the report (Section VI). The conclusion is at Section VII.

II. The Fundamental Transition Requirements

Mere arrival "in the community" is insufficient under the Court's orders.[3] Community living must be supported and developed through person centered planning and the implementation of the results of that planning.

The 2011 Settlement Agreement adopted by the Court[4] contemplated that, as individuals left METO/MSHS-Cambridge,[5] they would be smoothly "transitioned" to the community pursuant to the Court's orders. Once in the community, the State or local government would provide post-institutional care. It is the counties, as agents for the State, that have that role for individuals with intellectual and developmental disabilities.[6] Forty-five individuals have left MSH-Cambridge under the Court's orders, with several hundred class members having left previously when the facility was called METO.

A. The Settlement Agreement

Section VIII of the 2011 Settlement Agreement, titled "Transition Planning," specifically addresses multiple aspects of transition planning

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[3] *See Report to the Court: Client R.W.: AWOL v. Transitioned to the Community* (Nov. 12, 2013, Dkt. 251) (DHS reported to court that MSHS-Cambridge client R.W. has "transitioned to the community" when, in fact, he was listed by DHS as having gone "AWOL" when he ran sped off from the institution in a waiting car).

[4] Order of December 5, 2011 (Dkt. 136).

[5] On July 1, 2011, the structures which comprised METO were denominated "MSHS-Cambridge," and that day the clients living there were discharged from METO and admitted to MSHS-Cambridge.

[6] "All local governmental units are creatures of the state and subject to the will of the state legislature, within any constitutional restrictions." Deborah A. Dyson, *House Research: State-Local Relations* (Oct. 2010).

which pertain to the rights of "each individual" with regard to how and where they are served.[7]

The State is obligated to "actively pursue the appropriate discharge of residents" and then, when a person leaves METO/Cambridge, the State must "provide:"

- adequate and appropriate transition plans
- protections
- supports
- services consistent with such person's individualized needs

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[7] The settlement's language is:

> The State shall undertake best efforts to ensure that each resident is served in the most integrated setting appropriate to meet such person's individualized needs, including home or community settings. The State shall actively pursue the appropriate discharge of residents and provide them with adequate and appropriate transition plans, protections, supports, and services consistent with such person's individualized needs, in the most integrated setting and where the individual does not object. Each resident and the resident's family and/or legal representative shall be permitted to be involved in the team evaluation, decision making, and planning process to the greatest extent practicable, using whatever communication method he or she prefers. To foster each resident's self-determination and independence, the State shall use person centered planning principles at each stage of the process to facilitate the identification of the resident's specific interests, goals, likes and dislikes, abilities and strengths, as well as support needs. Each resident shall be given the opportunity to express a choice regarding preferred activities that contribute to a quality life. The State shall undertake best efforts to provide each resident with reasonable placement alternatives. It is the State's goal that all residents be served in integrated community settings with adequate protections, supports, and other necessary resources which are identified as available by service coordination. This paragraph shall be implemented in accord with the U.S. Supreme Court's decision in *Olmstead v. L.c.,* 527 U.S. 582 (1999).

Settlement Agreement, at 13 (Dkt. 103, June 23, 2011).

These essentials are to be provided "in the most integrated setting and where the individual does not object."

The settlement specifically identifies person centered planning as the vehicle used to facilitate this process. Person centered planning is a critical element to ensuring the Settlement requirement "that each resident is serviced in the most integrated setting appropriate to meet such person's individualized needs, including home or community settings."[8] An individual's person centered plan developed at MSHS-Cambridge with the participation of the county case manager and provider does not evaporate at the facility's exit door. The plan is to be implemented in the person's new environment. Person centered planning continues "at each stage of the process" with revisions to the person's plan of care as appropriate.

B. The Settlement's Mandate Is Undergirded by State Law

While compliance with the court's orders is an independent obligation of state and local officials, the settlement's mandate is undergirded by state law. The Commissioner of the Department of Human Services has extensive authority to require county agency participation in training programs, to monitor the performance of county agencies in the operation of human services, and to administer and supervise all non-institutional services to individuals with disabilities. Minn. Stat. 256.01.

Counties can work directly to ensure compliance. Case management service activities that are provided to the person with a developmental disability shall be provided directly by county agencies or under contract. Counties monitor services provided to individuals, and collaborate in the development and annual review of the individuals' coordinated service and support plan and habilitation plan. If a contracted provider fails to carry out

[8] *Id.*

its responsibilities, case managers can take action. *See* Minn. Stat. 256B.092; 245D.

III. Transitions to the Community Have Been a Concern for a Long Time

The Monitor has drawn the State's and Court's attention to transitions to the community numerous times. Non-compliance in this regard has been identified in the past. In addition, the Court Monitor has sought to assist by making findings, conceptualizing the process for the State and providing specific recommendations, none of which have been met with any objection.

Within a month of the Monitor's appointment, he raised concerns regarding transition planning about several specific clients, including three individuals who had been readmitted to METO and/or MSHS-Cambridge.[9] This was the first of several other communications to the State and Court on transition issues.

A. The 2013 Status Report on Compliance

The Monitor's June 22, 2013 *Status Report on Compliance* found non-compliance in all areas under transition planning.[10] In that report, the Monitor identified as a particular concern, "Integration with County Case Management." The Monitor found, "Gaps between the County service

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[9] Court Monitor, *Query: Coverage of Residents Under Section IX • Transition Planning, For discussion 8/21/12.*

[10] The Court Monitor found that Defendants failed to 1) ensure the most integrated appropriate setting for each of its residents (EC 54); 2) actively pursue discharge with transition plans (EC 55); 3) ensure that each resident's family is actively involved in the transition planning (EC 56); 4) engage in person-centered planning at each transition stage (EC 57); 5) work to honor each resident's choice (EC 58); 6) demonstrate its best efforts for placement alternatives (EC 59); and 7) implement transition planning in accordance with Olmstead (EC 60). Note: all EC references are from prior to the adoption of the CPA and new evaluation criteria numeration.

systems and DHS hinder effective and timely transition planning and the development of appropriate individual placements."[11]

At the time of the Monitor's *Report on Compliance*, DHS agreed that there was work to be done with regard to transition planning, but that work had not come to fruition a year later when the current review was conducted:

> ". . . the Department agree[s] that the Department should retain an outside consultant to specifically address transition planning." The consultant – to be retained by June 30, 2013 -- will be "responsible for designing and assisting in the implementation of a new transition planning program that is consistent with the *Olmstead* principles, the Settlement Agreement and best practices."
>
> "Further, the Department agrees with the Court Monitor's recommendation that there must be state-wide training on Transition Planning that includes both State and County staff. The Department will address this recommendation, in detail, in its updated implementation plan that will be submitted on or before June 30, 2013."[12]

No "new transition planning program" was developed by a consultant under the above commitment by the State, nor did state-wide training on Transition Planning with state and county staff yet occur (except for some initial training, optional for counties, in the last couple months). A group convened under DHS State Operated Services did not produce the promised program either.

The Monitor cautioned in the 2013 report: "County case management must be revised to enable compliance. Transition planning will not likely be timely or effective unless DHS exerts maximum regulatory and funding

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[11] Court Monitor, *Status Report on Compliance* at 104, ¶5. (June 22, 2013)

[12] Defendants' *Response to the Monitor's Draft Status Report on Compliance* (June 4, 2013) at 11, filed with the Court Monitor's June 22, 2013 *Status Report*.

leverage to ensure cooperation and action by its counterpart county systems."[13]

The Monitor's expert observed after discussions at Cambridge, "One factor that complicates and can delay a MSHS-Cambridge residence to a community setting is the variable resources of the respective individual's county of origin, which is responsible for both developing and financing this program."[14] The Court highlighted transition planning as an area of non-compliance in it's August 28, 2014 Order and Memorandum.[15]

B. Transition and Person Centered Planning

Two months after the June 2013 *Compliance Report*, and in response to the Department of Human Services' announcement that it would close MSHS-Cambridge in favor of community services, the Monitor issued a formal *Recommendation to the Parties: Transition Planning and the Re-purposing of MSHS-Cambridge* (Sept. 23, 2013) (Dkt. 226) to serve as a resource to the Department as it implements the evaluation criteria and Cambridge Closure Implementation Plan under the Order of August 28, 2013." The report "encapsulate[d] past and current Transition Plan concerns."[16]

The Monitor's report highlighted a history of reoccurring concerns both from external and DHS internal sources, through its Internal Reviewer. Repeatedly, deficiencies had been found with regard to individuals admitted

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[13] Monitor's *Status Report on Compliance* at 106.

[14] Dr. Mikkelsen Report at 39, attached to Monitor's *Status Report on Compliance.*

[15] *See* Amended Order and Memorandum of August 28, 2013 at 9-10 and n.4. (Dkt. 224).

[16] *See* Monitor's September 23, 2013 *Recommendation to the Parties: Transition Planning and the Repurposing of MSHS-Cambridge* at 3. (Dkt. 226).

and discharged from MSHS-Cambridge. The Internal Reviewer identified failures in community program implementation as the last-resort impetus for admission to Cambridge. Since that September 2013 report, further deficits were identified by DHS; the Internal Reviewer's February 2014 Report identified additional concerns with community case management.[17]

The *Transition Planning* report sought to remind the State of the components of individuals' entitlements when they move to the community. Plans are essential but alone are insufficient. Additionally, provision of protections, supports and services are necessary. All of that is built upon individual choice, participation and movement to the most integrated setting. The report included the schematic reproduced on the next page.

C. The DHS-Commissioned Review

On April 30, 2014, The Institute on Community Integration, University of Minnesota, issued its *Independent Review of Transitions: Three Individuals with Developmental Disabilities Who Moved from the Minnesota Security Hospital to the Community* (April 30, 2014) ("ICI Report").[18]

The Institute on Community Integration's (ICI) review was commissioned by DHS in response to the Monitor's June 2013 Status Report on Compliance finding that "discharges to the community did not include person-centered planning or an *Olmstead* analysis."[19] DHS was also hoping to gather "more detailed information about how improvement can occur in implementing transition planning and community support in a manner consistent with the intent of the *Olmstead* Decision and the *Jensen* Settlement Agreement."

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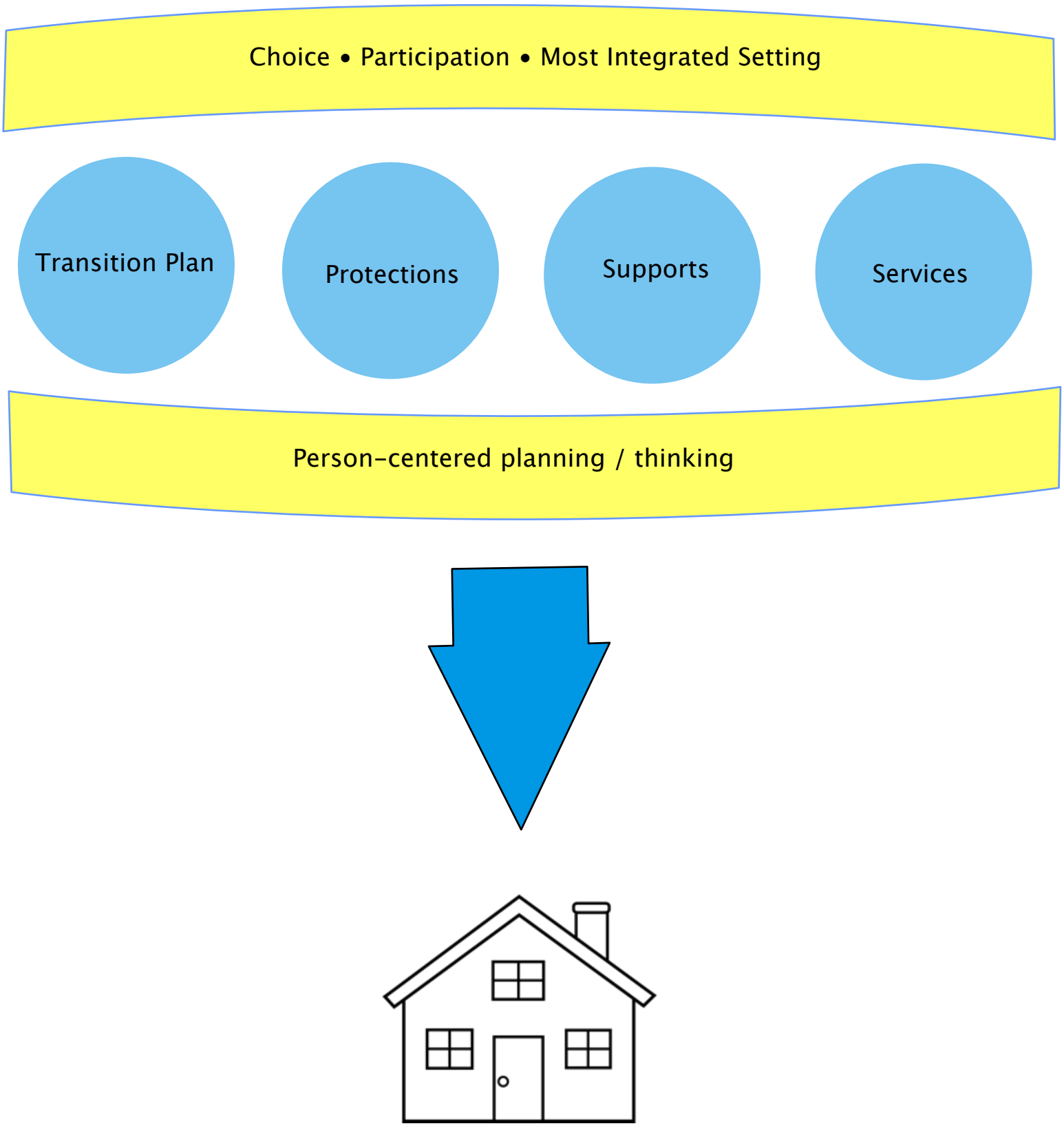
[17] *See, e.g.,* Internal Reviewer's February 2014 Report.

[18] The ICI Report is Exhibit 67 to the *Defendants' Second Compliance Update Report* (May 12, 2014) (Dkt. 299).

[19] April 30, 2014 *Independent Review of Transitions* at 4.

Schematic:
Settlement Agreement Provision on Transition Planning



In its review, ICI was asked to consider both the process of transitions and each individual's current planning in terms of person-centeredness and Olmstead driven services for three individuals who had moved from the Minnesota Security Hospital (MSH) to the community within the prior year.

ICI's overall conclusion was that although the dedication and efforts of the support teams were commendable,

> transitions were, as the court monitor asserted, not completed with a person-centered plan or *Olmstead* analysis and that there was no evidence that the moves to the community took place with the required transition planning under the agreements.

The ICI's most important finding was the absence of person centered planning:

> [N]o person-centered plans or views of these individuals were used to substantially guide services and an Olmstead analysis was not a leading driver in services.

In addition, ICI found that none of the individuals reviewed had a choice with regard to where they would live, or with whom, and that, with regard to *Olmstead*, the individuals' connections to the community and plans for the development of those relationships and roles were practically non-existent.

IV. Deficiencies in Community Services Generally

According to case managers state-wide, and according to others, providers and case managers generally have no knowledge of the transition planning elements of the settlement, or what is required in transition, or that individuals discharged from MSHS-Cambridge have entitlements under the settlement, or the identities of the individuals have those entitlements. They have not been trained regarding these matters. An exception would be those counties where there are pockets of local leadership who have informed

themselves, and some case managers who have worked directly with Minnesota Life Bridge, as MSHS-Cambridge was closing, and had intense exposure through that contact. Overall, county case managers do not understand, and do not utilize, the full range of creativity which may be employed for designing supports for individuals whom they serve.

Despite the repeated findings and recommendations of the Court Monitor, DHS' strongest focus until recently has been on state-operated services, rather than to other staff within the DHS Central Office. Until recently, the scope of the settlement was not understood by DHS staff. Early on, some DHS staff, and community case managers, knew of the settlement fund created under the lawsuit, but this knowledge was not tied to the other requirements of the settlement. Counties have not been informed regarding the settlement's requirements, the findings of the Court Monitor or the Court's orders.[20]

State-operated community services administration and leadership are generally better informed due to having been part of the Jensen person-centered thinking training. This is not to say that MSOCS is markedly better at providing services than their private non-profit and for-profit counter parts. Many have longstanding commitments to, and knowledge of, person centered planning as well, and this may be reflected in improved services to individuals. Thus, some of the settlement requirements are already being implemented in a state operated context.[21]

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[20] For example, DHS disseminates information on community services to counties through electronic announcements which are archived by DHS. From the 2011 adoption of the settlement to the present, only two announcements relate directly to this litigation, both of which are solely about the MSHS-Cambridge closure (12/30/13 and 4/30/14).

[21] For example, Focus Person F's residential services were evaluated positively in significant part by the Court Monitor's consultants.

It is pertinent to note here that the Department has for a long time essentially treaded water with regard to hoped for reform of Case Management in Minnesota. The Legislature appears to have been patient with these delays. After numerous studies on the subject,[22] the *2013 MN Case Management Reform* report "recommends continuing to work in collaboration with the stakeholders and bring an implementation plan back to the legislature in 2014."[23] This implementation plan did not reach the Legislature so far in 2014. The *2014 Case Management Reform Report* is currently in the commissioner's office. Disability Services Division is working on revising the executive summary. Although some issues were reportedly resolved, some were not. The anticipated full implementation plan has not yet been completed.

V. The Court Monitor Community Review

A. Compliance Elements Assessed

With a team of consultants, the Court Monitor reviewed six clients transitioned to the community from MSHS-Cambridge after the Settlement Agreement was adopted.[24] These individuals comprised 13% of the 45 listed

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[22] *See* DHS, Disability Services Division, *Case Management Reform for Persons with Disabilities in Minnesota* (Feb. 2011); DHS, Disability Services Division, *Quality Management in HCBS 2011: The Quality Management Assurance Management and Improvement System for Minnesotans Receiving Disability Services*, Legislative Report (Feb. 2011); DHS, Disability Services Division, *Biennial Report on Long-Term Services and Supports for People with Disabilities,* Legislative Report (Jan. 2013); DHS, Disability Services Division, MN Case Management Reform, Legislative Report (Feb. 2013).

[23] DHS, Disability Services Division, *2013 MN Case Management Reform* (Feb. 2013) at 6.

[24] The consultants' experience is at **Appendix A**. Their methodology is at **Appendix B**.

by the State as having left the institution on or after July 1, 2011.[25] Of the six, the most recent discharge date was April 2, 2012.

The consultants' compliance tool, finalized in an individual workbook for each person reviewed, makes individual compliance finding recommendations regarding the *Jensen v. Department of Human Services* court orders' expectation that person-centered, adequate and appropriate protections, supports, and services must be provided to individuals transitioned from MSHS-Cambridge to community settings.[26] (The minimal standards applied are drawn from the Settlement Agreement). The consultants' compliance methodology is at **Appendix B.**

Section A of the tool consists of Compliance Standards which must be met for the person. Each Standard is accompanied by indicators, the presence of which support or contradict a finding that compliance exists; these are rated yes (Y), no (N) or don't know (DK). An overall rating of "compliance" or "non-compliance" for each Compliance Standard is assigned for each person for each Standard.

Five Compliance Standards were assessed:

> 1. **Individual and Family Involvement**: 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.
>
> 2. **Person-Centered Principles and Processes**: To foster each person's self-determination and independence, person-centered planning principles shall be used at each stage of the process to facilitate the identification of the person's specific interests, goals, likes and dislikes, and abilities and strengths, as well as support needs.

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[25] Although not approved until December 5, 2011, the Settlement Agreement was filed with the Court on June 11, 2011 (Dkt. 104).

[26] The Compliance Review Tool is at **Appendix C**.

> 3. **Choice and Quality of Life:** Each person shall be given the opportunity to express a choice regarding preferred activities that contribute to a quality of life.
>
> 4. **Alternatives**: Best efforts shall have been undertaken to provide each person with reasonable alternatives for living and working.
>
> 5. **Provision of Adequate Services in Integrated Settings**: Each person shall be provided with adequate and appropriate transition plans, protections, supports, and services consistent with such person's individualized needs, in the most integrated setting and where the individual does not object.

The tool's Section B examines domains, which are relevant to compliance and protection from harm. These are:

- Circumstances which require further investigation
- Autonomy, Rights, and Choices
- Physical Setting
- Family and/or Legal Representative
- Urgent Concerns

Except in special situations (for example, where harm, maltreatment, or risk of institutionalization are implicated, or where situations affect multiple individuals), concerns in these domains are not a basis for a recommendation of non-compliance. However, concerns or strengths in these domains may be the basis for remediation or other recommendations, or for commendations.

An individual overview report summarizes the results of the workbook review.[27]

[27] The final element of the tool provided that, in the event that there might be major concerns identified on-site during reviews, the reviewers were instructed to alert the Court Monitor immediately so that the proper authorities could be notified.

The reviewers visited the individuals' homes and day programs, met with the individuals, interviewed program and case management staff, and spoke with families/guardians. Extensive record reviews were also conducted.

Due to the consultant's consistent acutely negative findings in the first week, the Court Monitor determined that the second week review would not take place, and directed the consultants to spend at least that time preparing their reports.

B. Results of the Review

The results of this community compliance review should be no surprise to the State. Essentially, the results are:

- Success of DHS' recent efforts at MSHS-Cambridge to develop person centered plans with depth and detail, and
- The absence in the community of person centered plans, of implementation of basic principles underlying the court's orders, *Olmstead's* integration mandate, and of effective settlement-informed monitoring and enforcement by case managers.

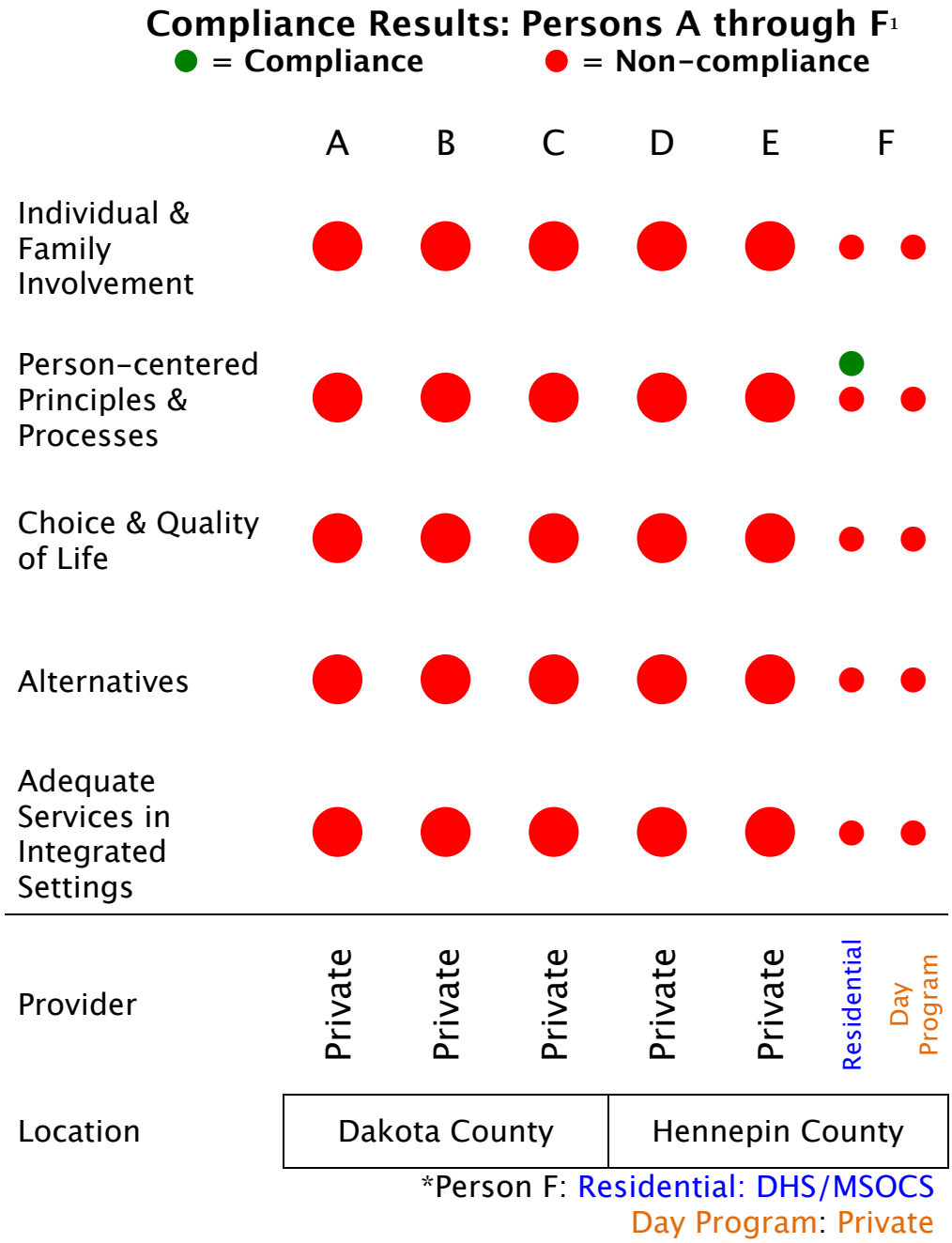
There is virtually no knowledge in the community of the court's mandates with regard to transitions. Community case managers and providers do not know that the individuals they serve have entitlements under the court's orders.

The themes which emerge are set forth by the consultants in several following pages. In summary, they include:

Major concerns were identified for two individuals. DHS responded immediately and thoroughly to those concerns, contacted the county officials involved and set in motion appropriate review and investigation.

- Lack of awareness of the Settlement Agreement and of person-centered principles and planning
- No guidance which leads to no or limited vision, segregated or congregated life in the community, lack of relationships with people without disabilities, no idea of what a full, meaningful, and inclusive life looks like.
- Lack of person centered plans
- Lack of coherent plans reflecting a balanced effort for training to achieve stated goals while providing protection from risk of harm
- Lack of awareness that services could be flexible or altered to accommodate class members' preferences and desires
- Unrecognized and unaddressed gaps in services
- Fitting people into existing supports and services
- Antiquated service models
- Lack of real efforts to support class members to realize true community membership
- Psychotropic medications prescribed without due care
- Environmental and personal restrictions

The next page summarizes the compliance results for each focus person. The following several pages present the themes surfaced by the consultant team. Next, the report moves to the consultants' vivid narratives of the results for each focus person.



[1] Person F's state-operated residential program was rated non-compliant under the review's standards. However, on the person-centered criterion, all but one of the indicators was rated positive. Overall, person centeredness was positive.

Jensen v. Minnesota Department of Human Services

Themes from Community Compliance Reviews Conducted May 28-30, 2014

Jensen Settlement Agreement:

- Lack of awareness of the Settlement Agreement
- Lack of awareness and understanding of Olmstead
- Limited knowledge of person-centered principles and/or planning
  - difficulty in obtaining information regarding availability of training
  - schedules/opportunities for training not regularly communicated by DHS
- Lack of adequate proactive explanation and education to counties and provider agencies by DHS with regard to preparation for and expectations of Court Monitor's review activities

No strong ideological underpinning or guidance which leads to no or limited vision, segregated or congregated life in the community, lack of relationships with people without disabilities, no idea of what a full, meaningful, and inclusive life looks like

- Lack of awareness of valued status and social roles
- No understanding of devaluation and its consequences
  - Lack of understanding of how to address the consequences of devaluation
  - Class members are in the role of "human service clients"
  - Class members' reputations/histories define their lives
  - Misunderstandings of past histories and reputations were not noticed or clarified

Planning:

- Lack of plans that reflect person-centered approaches (what is important to/for, individual preferences, and overall life desires)
- Lack of understanding of person-centered planning practices and approaches
- Lack of understanding regarding what it means to be person-centered and what indicates "inclusion" and "integration"
- Lack of full and inclusive involvement of families, strong support networks
- Inadequate advocacy and natural support networks
- Person-centered plans or practices were rarely used to guide services for class members reviewed
- Plans were disjointed and not incorporated into one overall person-centered plan that identifies class members' aspirations, preferences, and choices with a balanced effort for training to assist in achieving stated goals while being protected from risk of harm
  - Comprehensive, person-centered transition plans developed at Cambridge were not carried through or incorporated into the plans developed after the class members moved to a community program
- Lack of awareness or consideration that services could be flexible or altered to accommodate class members' preferences and desires

- Unrecognized and unaddressed gaps in services

Implementation:

- Limited or no idea of best practices for implementation based on person-centered principles
- Fitting people into existing supports and services (e.g., residential vacancies, pre-set templates in day programs), specifically:
    - limited to no real choice in residential options
    - work options lacked significant focus on what the class member would like to do, where and with whom they would like to work, and what supports/services need to be designed to work toward that goal
    - antiquated service models (group homes, workshops, token economies, earning outings and privileges)
- Lack of real efforts to support class members to realize true community membership
    - focus was lacking for true community participation, membership, inclusion, and relationships for what the class member would like to do, where and with whom they would like to spend their time, and what supports/services need to be designed
- Virtually no true integration and there were no plans for connecting class members to others with valued roles in the community
- Lack of facilitation of opportunities for class members to meet people and develop relationships with typical peers; opportunities were focused on other people with disabilities
- Guardianship Status
    - How determined and approached
    - Lack of understanding of the variety of ways to provide necessary personal protections (natural supports, alternative guardians, advocates, families)
    - Lack of planning to help class members regain control over their personal lives, once guardianship has been established
- Lack of full and inclusive involvement of families, strong support networks
    - Families oftentimes disempowered, overruled by treatment teams and professional recommendations

Protection from Harm:

- class members subjected to environmental and personal restrictions
- class members subjected to token economy and other non-evidence based treatments
- class members subjected to manual restraint
- psychotropic medications prescribed in absence of a diagnosis of a mental illness or for the use of controlling behavior rather than treating symptoms
- psychotropic medications prescribed without due care for prevention or reduction of side effects, monitoring for adverse reactions, and signs of over-medication and/or problematic interactions
- the use of multiple psychotropic medications (polypharmacy)

Focus Person A

Focus Person A is a 21 year old young man who recently moved from Cambridge to a group living arrangement operated by Everyday Living in Mendota Heights, MN, after living at MSHS Cambridge since July of 2012. Focus Person A has a history of problematic behavior and family difficulties, resulting in a commitment to MSHS-Cambridge in July of 2013.

He was discharged from MSHS-Cambridge to a four-bed group home in the community in March of 2014. We visited Focus Person A at this home on May 28th. In-person interviews were held with Ray Brock (DD Case Manager) and Amanda Finley (Residential Program Manager at Glad House where he lives). We also briefly visited and observed Focus Person A's day program at Everyday Living, although he was not present at the time. In addition, telephone interviews were conducted with Sandra Lenertz (Mental Health Case Manager) and Focus Person A's stepmother. We spent a very limited amount of time with Focus Person A, at his request.

Focus Person A is living in a residential program which imposes uniform measures and processes to all the people served in the home, as well as many cross-program rules and restrictions and an "across the board" behavioral control system consisting of levels and "pause on activities" for violations. Infractions result in "disciplinary action" and loss of time with staff and activities. This uniform approach is not consistent with person-centered supports, driven by the unique individual identity and needs of the person.

Prior to leaving Cambridge, Focus Person A had the benefit of what appears to be an excellent person-centered Transition Plan, rooted in an acknowledgement of what people need to know about him and what should be in place for his successful return to the community. Unfortunately, many of the ideas and knowledge about Focus Person A, and strong recommendations about what should be in place, were either ignored or forgotten, and the plan was clearly not relied on to form the basis of his support. This is exampled extensively in the attached report.

The staff supporting Focus Person A in the home and day program are unaware of the principles of person-centered thinking, have received no or nearly no training, and are missing other essential formative bodies of knowledge about how to support people well in the community, including positive approaches the challenging behavior, functional behavioral analysis, Social Role Valorization, the important of social integration, etc. They are also unaware of the Jensen Settlement, the Olmstead decision, and that Focus Person A is a member of a protected group of people who have been promised responsive, individualized services.

In contrast, Focus Person A has been put into a rigid program which has not been tailored to his needs. He is very unhappy, and in the first 10 weeks little has happened to move things forward toward the things he clearly wants in his life – real work and his own place to live. He is being told to buckle down and comply, and prove to those

around him that they can trust him. In the meantime, he has experienced fractures in his family relationships, has had his autonomy stripped away by a guardianship proceeding and handed to a professional guardian who does not know him, and has had his visits with his mother supervised. In spite of these difficult life events, Focus Person A has, by and large, held himself together. We were told that he has decided to put up with his living situation in the hopes that it will change in December when his commitment could end. It is a concern whether he will be able to continue to do so for 6 months, especially when it is possible his commitment will be renewed, in which case the threat of re-institutionalization will continue.

Interestingly, the program supervisor has discovered that Focus Person A requires individualization, and has begun to adapt the "system" here and there to meet his needs in very small ways with success. She stated that Focus Person A is making her think out of the box, told us that the program she supervises is a box, and says that her job now is to help the other people she supports to get out of the box. We respectfully submit that Focus Person A's unique and individual needs were well known by the staff who worked with him at Cambridge, detailed in a comprehensive, person-centered transition plan, well communicated, but mostly disregarded. Focus Person A should not have to be teaching people all over again – no wonder he tires of meeting with professionals and did not want to meet with us. The learning curve for the staff to work well with Focus Person A, to develop individualized programming and support, and to begin a truly person centered planning process should have been well underway prior to his move to this home. The first step would include getting those professionals who are bound by an antiquated "readiness" model for community collaborating with new staff and family to start looking to the future and preparing for it now.

Focus Person B

Focus Person B is a 24 year old young man who moved from MSHS-Cambridge two years ago to a group living arrangement operated by Zumbro House in Bloomington, MN.

He was discharged from Cambridge to a three-person group home in the community in the spring of 2012. This program was specifically developed to serve Focus Person B and two other individuals from Cambridge. We visited Focus Person B at this home on May 29th, and on briefly on his work crew the following day, while engaged at another group home operated by Zumbro House. In-person interviews were held with Meredith Peck (Case Manager), Christine Stefan (Residential Manager at Jurdy House) where he lives), and Leah Randall (Director of Program Services at Zumbro House). We attempted unsuccessfully to reach Focus Person B's parents by telephone, but were able to spend time talking with Focus Person B at his group home.

One of the most striking features about the group home where Focus Person B lives was the uniform controls and restrictions imposed on the people living there, and the lack of individualization of approach. These two central foci of the program drive out individualization, a person -centered approach, and responsive, flexible services which are tailored to his needs. Perhaps the most extreme example was that the shoes of each person living in the home are kept locked in a closet, and must be requested from the staff. This restriction was reportedly to decrease the likelihood of people running away. The attached report details many such restrictions, and a huge list of contingencies that are often out of reach for Focus Person B. The restrictions and control are over both big and small aspects of his life; such things as snacks, snack time, surveillance by video, locked food, community activities, family visits, plastic utensils, bed time, and many more. Signs were posted everywhere reminding the residents in this home of the house rules, what they may not touch, where they may not go, and what they may not do.

A second central theme within this service was a lack of focus on competency development and on designing this focus towards Focus Person B having the kind of life that he wants. Even when Focus Person B stated some concrete things he would like to get involved with (walking on a track, taking college courses, and getting a job), none are being addressed. Two of these ideas would have been fairly easy to implement, with a nominal amount of effort by the staff and an opportunity to demonstrate to Focus Person B that what he wants matters and will be taken seriously. Instead, it was disregarded, because "[Focus Person B] changes his mind every 5 minutes."

In contrast, Focus Person B's goal plan areas are deficit-focused, de-personalized, and geared towards compliance and control rather than growth and forward movement. His "goal plans" are hygiene, exercise, cleaning his bedroom, and maintaining a level 2 – all geared towards compliance (i.e.., getting Focus Person B to shower, clean his room, act right, and exercise) rather than develop talent, interests, and relationships. It should also be noted that these goals are nearly exactly the same as

both of his housemates. His progress has steadily deteriorated in each of the three areas, yet little modification, revision, or adaptation has happened over the years. We would expect a great deal more after two years in terms of developmental support towards gaining competencies, moving forward, and building on Focus Person B's strengths. One might note that this paragraph is drawn nearly verbatim from the overview report on one of his housemates, which is no accident. This speaks to the level of de-personalization of services received by both young men.

Very little of the State-wide efforts on person-centered and positive approaches have been invested in the staff of this program and the case manager, despite their significant experience and tenure. The Program Supervisor was unfamiliar with person-centered planning, positive behavior supports, positive approaches, and other best practices, which have become common knowledge over the last 20 years in our field. They unabashedly administer a 10-level behavior management system across, not only all three people who live in the home, but also their entire system of community homes, and all those who live within it. This "level" system applies consequences and contingencies in response to a list of target behaviors exhibited by people they serve. It is institutional, antiquated, and a remnant of a system oriented towards control and compliance. They do recognize that the system is out of date, as they have renamed and re-conceptualized the system to be a "medal system" where people are assigned to a level associated with one of 15 possible semi-precious gemstones or precious metals. The result is that people are given opportunities to earn a plaque, t-shirt, lunch with a program supervisor, or a trip no more than 90 miles away from the program, for years of "good behavior".

Another concern was the lack of a community focus evident in this program. Focus Person B spends virtually all his time with people with disabilities who also have behavior problems. He lives with them (although he did not choose them). He spends his days with people with disabilities also served by this agency on a work crew, which is just for Zumbro House clients who spend all day at various group homes with only a few possible hours of paid work. Even his group therapy happens in his living room, under the surveillance of video cameras with clientele from three different group homes. This level of segregation and congregation is expectable in institutions, but not in community programs. This program has virtually no focus on the need to cultivate and structure Focus Person B to have freely-given relationships with typical people – the central issue for integration. Surrounding Focus Person B with other people with the same disability and the same problems he struggles with 24-hours a day is not helping connect him to an everyday life and move him towards it. In a community-based service, it is expected that rigorous efforts be expended towards social and physical integration, and this is not a part of the picture for Focus Person B.

Focus Person C

Focus Person C is a 24 year old young man who moved from MSHS-Cambridge two years ago to a group living arrangement operated by Zumbro House in Bloomington, MN. Focus Person C has a history of physical and sexual abuse, problematic sexual behavior, and aggression, resulting in a history of institutionalization, culminating with a stay at Cambridge.

He was discharged from Cambridge to a three-person group home in the community in the spring of 2012. This program was specifically developed to serve Focus Person C and two other people from Cambridge. We visited Focus Person C at this home on May 29th. In-person interviews were held with Jennifer Brustad (Case Manager), Christine Stefan (Residential Manager at Jurdy House where he lives), and Leah Randall (Director of Program Services at Zumbro House). We also briefly visited and observed Focus Person C at Solstice Center, an MSOCS sheltered workshop designed to serve people with problematic sexual behavior, on May 30th. Dr. Carolyn Kinney, Focus Person C's lead therapist, was interviewed at The Safety Center, Inc., a day program for people with problematic sexual behavior, although Focus Person C was not present at the time. In addition, a telephone interview was conducted with Focus Person C's adoptive mother and legal guardian. We were able to spend time talking with Focus Person C at his home.

One of the most striking features about the home where Focus Person C lives was the uniform controls and restrictions imposed on the people living there, and the lack of individualization of approach. These two central foci of the program drive out individualization, a person-centered approach, and responsive, flexible services which are tailored to Focus Person C's needs. Perhaps the most extreme example was that the shoes of each person living in the home are kept locked in a closet, and must be requested from the staff. This restriction was reportedly to decrease the likelihood of people running away. The attached report details many such restrictions, and a huge list of contingencies that are often out of reach for Focus Person C. The restrictions and control are over both big and small aspects of Focus Person C's life; such things as snacks, snack time, surveillance by video, locked food, community activities, family visits, plastic utensils, bed time, which days Focus Person C may have juice, and many more. Signs were posted everywhere reminding the residents in this home of the house rules, what they may not touch, where they may not go, and what they may not do.

A second central theme in Focus Person C's life was the lack of committed effort towards helping Focus Person C move forward and build on what he CAN do, what he WANTS to do, and what BUILDS competencies and skills. Instead, the strong focus is on compliance rather than growth and forward movement. His "goal plans" are hygiene, exercise, cleaning his bedroom, and maintaining a level 2 – these are all geared towards compliance (i.e., getting Focus Person C to shower, clean his room, act right, and exercise) rather than develop talent, interests, and relationships. These goals are nearly exactly the same as both of his housemates. His progress has steadily deteriorated in all areas, and yet little modification, revision, or adaptation has happened over the years.

We would expect a great deal more after two years in terms of developmental support towards gaining competencies, moving forward, and building on Focus Person C's strengths.

Very little of the State-wide efforts on person-centered and positive approaches have been invested in the staff of this program and the case manager, despite their significant experience and tenure. The Program Supervisor was unfamiliar with person centered planning, positive behavior supports, positive approaches, and other best practices, which have become common knowledge over the last 20 years in our field. They unabashedly administer a 10-level behavior management system across not only all three people who live in the home, but also their entire system of community homes, and all those who live within it. This "level" system applies consequences and contingencies in response to a list of target behaviors exhibited by people they serve. It is institutional, antiquated, and a remnant of a system oriented towards control and compliance. They do recognize that the system is out of date, as they have renamed and re-conceptualized the system to be a "medal system", where people are assigned to a level associated with one of 15 possible semi-precious gemstones or precious metals. The result is that people are given opportunities to earn a plaque, t-shirt, lunch with a program supervisor, or a trip no more than 90 miles away from the program, for years of "good behavior".

The final major issue that is having a negative impact on Focus Person C's life is the significant and nearly complete segregation from typical people. He lives with other people with disabilities and behavioral problems. He spends his mornings at a sheltered workshop just for people with developmental disabilities and sexual behavior problems. He attends a day program in the afternoons for people with developmental disabilities and sexual behavior problems, and even his group therapy (which takes place in his living room under video surveillance) is made up of his house mates and residents of three other group homes. Surrounding Focus Person C with other people with similar disabilities and struggles embeds him in human service "clienthood" and surrounds him with a culture of behaviorally challenging people. In a community-based service, it is expected that rigorous efforts be expended towards social and physical integration, and this is not a part of the picture for Focus Person C.

Overview of Community Review for Focus Person D

June 2014

Reviewers: Ronnie Cohn and Darcy Elks

Focus Person D, as he prefers to be called, is 41 years old and moved from Cambridge to his current home on August 15, 2012. He had lived at Cambridge for almost two years, reportedly precipitated by escalations in his challenging behaviors which providers in the community were unsuccessful in helping Focus Person D to manage.

Focus Person D's home was designed specifically to meet his needs at a time when other providers operating existing homes in the community were reportedly either unable or unwilling to identify or develop an appropriate residential opportunity for him. Reviewers visited Focus Person D at his home and day program on May 28th and 29th, 2014, where we met Focus Person D and spent time with him, interviewed staff and reviewed his records. We also met with his county case manager, who has known Focus Person D for several years and advocates for him. Following our visits, a telephone interview was completed with his father and his behavior analyst.

We were most impressed, at Focus Person D's home, with his well trained and competent staff and with Focus Person D's comfort in their presence. We met with MSOCS Community Residential Supervisor Todd Buckingham (who was formerly the house manager for Focus Person D's home), House Manager Jessica Christiansen, Behavior Analyst I Lolly Lor, Behavior Management Assistant Dan Schneider and County Case Manager Steven Benton. Staff display positive attitudes and respect toward Focus Person D and illustrate the value of the training they had received, both prior to working with Focus Person D and ongoing through MSOCS, in person centered approaches and positive behavior supports. They are clearly proud of how far Focus Person D has come in managing his own challenges and adjusting to his home in the community. They promote a caring, relaxed atmosphere in Focus Person D's home and truly appreciate his strengths and gifts. Focus Person D's case manager told reviewers in an interview that Focus Person D's housemate moved in with him "by chance" as he works with both of them and knew of this opportunity for both of them to benefit from "good, trained staff in a stable situation".

In Focus Person D's day program, however, an antiquated readiness model persists as opposed to a more progressive supported employment approach that promotes the realization that everyone can work if given the necessary amount and type of support. The stated vision of his program is merely that within two years Focus Person D will be able to start doing piecework within the program and going out in the community. The activities in which Focus Person D is engaged during the day are unlikely to lead to anything more meaningful than that which currently takes up his day. In addition, the day program

employs culturally inappropriate token reinforcers and negative consequences (i.e. sitting on the floor) to address challenging behaviors. Despite all of the strengths displayed by Focus Person D's residential staff and case manager, as well as the overall devotion of Focus Person D's parents, there appears to be limited recognition of how little Focus Person D benefits from his day program and no coordinated effort to explore alternatives that would provide more community participation and real work opportunities for Focus Person D during the day.

Focus Person D has a significant intellectual disability and a unique style of communication. He needs assistance in making decisions about most important things. His disability puts him at risk of others making all of the decisions in his life and thereby exerting a great deal of control over his life. The reviewers are confident that Focus Person D is being supported to make simpler choices in his home on a daily basis. The staff in his home are aware that it is important for him to make such choices and are skillful at assisting him to do so. It is also noted that Focus Person D's parents want him to be involved in making major decisions and seek his input. However, it is unclear whether the decision makers are willing to think beyond and challenge the limitations of the system.

An overarching area of concern to reviewers is integration. Focus Person D is not integrated in his community, but rather just visits it. When he is with his family, he engages in typical activities with typical people in typical places and he enjoys a valued role within his family. However, at all other times he has few interactions with people without disabilities and limited opportunities for inclusive participation in his community. He does not experience meaningful relationships (apart from staff and family) or typical valued social roles such as employee, volunteer or friend.

Overview of Community Review for Focus Person E

June 2014

Reviewers: Ronnie Cohn and Darcy Elks

Focus Person E is a 46-year-old woman who moved from Cambridge MSHS to Anoka on 6/7/12. She subsequently moved from Anoka on 11/6/12 to a group home that is operated by Destiny Home Care Services, where she lived for about 1 year. She then moved to the group home in which she is currently living on 12/7/13 and this home is also operated by Destiny Home Care Services. Destiny Home Care Services is licensed as a private for profit organization.

Focus Person E's history is not very complete in her record. We were told by staff that she experienced physical and emotional abuse starting at the age of 5. She has lived in institutions, hospitals, and group homes. Focus Person E did attend school and completed high school. She described her experience at school as "hard". Focus Person E has never worked and has spent her days as an adult either in day programs or at home.

At present, Focus Person E stays home all day long. Focus Person E is biologically a female and struggles with her identity, having at times believed that she is transgender. Focus Person E has identified as both a woman and man at different times. She legally changed her name and is about to change it back. Focus Person E is close to her family and was described by the staff has having "an emotional and spiritual continuity" with her family members. Her sister, mother, and aunt are involved in her life. She sees her sister regularly and joins her family for major holidays. Focus Person E has a number of health issues. She has 13 medical conditions and 4 mood/mental health disorders listed in her record.

We visited Focus Person E at her home in Bloomington, MN where she lives with 3 other people with disabilities. We spoke with Focus Person E at length, including privately, conducted interviews with Nursing Supervisor Grace John and Personal Care Assistant Regina Sellers. We spoke with Focus Person E's case manager Paul Nash by phone, as he is located in St. Louis County. We also talked with her sister.

Focus Person E has had a very difficult life since she was a small child. She needs to be valued and respected by the people who support her, have a home in the truest sense of the word, have friends both with and without disabilities, become as healthy and fit as possible, and live a full and meaningful life within her community. The reviewers are concerned that most of these needs are not being addressed by the services that Focus Person E is currently receiving. The overarching issue is that although she has moved out of the institution, she is living an institutionalized life within the community

The house she lives in is devoid of decorations or personal possessions. There is not a table big enough to accommodate Focus Person E and her housemates together. Focus Person E has her own room where she spends most of her time. She does not own the furniture in her room, which appears to be old and mismatched. Focus Person E has few personal possessions, which are mostly in a pile on the floor in the corner of her bedroom. She has an old television (which she watches quite a bit) that she told us only gets a few channels and "cuts in and out." At the time of the visit she did not have sheets on her bed and she stated she had been sleeping on the bare mattress with a blanket over her (even though it was very warm in the house). The Nursing Supervisor told us that Focus Person E had taken the sheets off of her bed. Her room is dark.

Focus Person E has few opportunities to make choices and spends most of her day watching television in her room. This is difficult for her since she does not have glasses that correct her long distance vision so she cannot see the screen clearly. This should be resolved immediately if it hasn't been already.

Focus Person E is not involved in the daily routines and rhythms of the house such as planning menus, cooking and cleaning. The staff does everything in the house without inviting Focus Person E's participation.

It appears that the 3 other people who live in the house also mostly spend their days in their bedrooms. Focus Person E did not choose her housemates, has very little contact with them and wants to move to a different group home so she can live with all men. Focus Person E stated to us that she did not want to be with other people with disabilities.

Per documentation and conversations with Focus Person E, Focus Person E has been requesting assistance in obtaining employment for years. She wants to work to make money to support herself. Yet it was not until May 27th, 2014 that she was assisted to see if she would qualify for a supported employment program. Currently she is sleeping most of the day. Focus Person E's sister noted that she hopes someday her sister will find purpose in her life.

Except for contact with family, Focus Person E leads a very segregated life. She knows no one in her community or even the neighbors. In fact, she has been told to stay away from the neighbors. Focus Person E does go "out into the community" which means that she goes to a store or restaurant of her choice approximately 1 time per week. These outings have not increased Focus Person E's social network.

Focus Person E is continually monitored by staff. She does appear (as observed and stated by her sister) to have a good relationship with one of the personal care assistants in her home. Otherwise she does not appear to have much contact with staff in the house. She does reportedly call the owner of the business, Pastor Eddie, and he will sometimes take her out to places like Walmart. The Nursing Supervisor, who supervises all staff in the house, appeared at times to be abrupt and annoyed with Focus Person E.

While Focus Person E does have some goals listed in her record, the Nursing Supervisor told us that Focus Person E's main program emphasis is to comply with the staff expectations, rules of the house, and the requirements of her treatment plan.

Focus Person E's health is of great concern to her family. Her sister said that Focus Person E had gained 100 pounds while in Cambridge and Anoka. Her family is also concerned that Focus Person E is sleeping so much and taking so much medication. The reviewers noted that Focus Person E repeatedly fell asleep while in the middle of conversations. There is no stated plan to reduce the dosages of her medication or to eliminate any of them.

Focus Person E has received counseling to assist her to cope with her gender identity issues. The staff report that she has come to resolution with these, but she still appears to be struggling with her identity. Focus Person E told reviewers that she now considers herself "a woman who is a tomboy" and is going to change her name. She is no longer in counseling and does not belong to any LGBT groups where she might be able to find peer support and understanding.

Focus Person E's sister said that she thinks Focus Person E needs a representative payee and an independent advocate but was unsure about where to find these resources. Reviewers agree that she needs an independent person to assist her in advocating for herself.

It appears to reviewers that Focus Person E is continually thought of in terms of deficits, not strengths and preferences. Her life is reflective of that thinking. Focus Person E lives a very institutionalized lifestyle. It seems that she has moved from a big to a small institution. She has been fit into a preset template of a very traditional service system and is expected to conform. Except for her relationships with her family and one of her personal care assistants, Focus Person E is leading a very lonely and isolated life. In short, her life lacks belonging, friendship, fun, and fulfillment.

Focus Person F

Focus Person F is a 26-year-old man who moved from Cambridge 6 1/2 months ago to a house in Richfield that he shares with another man who is 41 years old. Focus Person F was sexually abused as a child and removed from his mother's home when he was 16. He has lived in a number of different places including in his father and stepmother's home, foster homes, group homes, hospitals, crisis homes, and a large institution. Focus Person F has moved 27 times in 10 years. With each move, Focus Person F's behavior became more pronounced and difficult for him and others to manage.

We visited Focus Person F at his home in Richfield, MN on May 29th. We had an opportunity to spend time with him in his home and to talk with him privately at length. We interviewed the community residential supervisor Todd Buckingham, house manager Jessica Christiansen, behavior analyst I Lolly Lor (who is a direct support staff person), behavior management assistant Dan Schneider (who is a direct support staff person), case manager Steven Benton, and then David Blom, behavior analyst III by phone. We also visited Focus Person F's day program on May 29th, while he was there, and interviewed Kelsey Juenke who is the manager at the CCP Garfield day program. We reviewed documentation in Focus Person F's file and noted that he had an expansive person centered transition plan, which was developed with him prior to his move to his home in Richfield. This plan is detailed and offers a number of ideas of areas of interest that Focus Person F would like to explore to expand his lifestyle.

Focus Person F's home is a good fit for him in many ways. It is physically attractive and comfortable. Focus Person F's bedroom is large and he has decorated it with the things that reflect his interests such as sports memorabilia. The staff at the home know Focus Person F well and appreciate his talents and strengths. As well, the staff are trained in, and embrace, person centered thinking/approaches and the use of positive behavior supports. They appear to be committed to supporting Focus Person F to have a fuller lifestyle than he has had in the past. He is responding well to the staff's expectations and support as is evidenced by the reduction of challenging behaviors. Focus Person F has the opportunity to make choices about many things in his home life such as schedules, routines, activities he wants to engage in, and food he wants to eat. However, the reviewers noted that Focus Person F did not choose his housemate, has nothing in common with him, and has not developed much of a relationship with him.

Despite the positive elements of Focus Person F's home, his needs to belong in the community of Richfield, be in valued social roles that are a good fit with his interests, and develop relationships with peers without disabilities are not being adequately addressed. Focus Person F does participate in activities in the community, but none of these activities have led to valued social roles. For example, Focus Person F goes shopping and eats out at restaurants, but he is not a member of a gym, member of a Catholic Church, member of a band, member of a cyclist club, etc. The lack of valued social roles in Focus Person F's life directly impacts on his lack of belonging in Richfield. It is almost impossible to have a valued place in one's community without being in

valued social roles. As it is now, Focus Person F essentially "visits" in the community rather than belonging in it. Except for relationships with family members, Focus Person F has no relationships with people who do not have disabilities. He has very little opportunity to meet peers without disabilities with whom he could share similar interests. Although Focus Person F physically lives in the community of Richfield, he spends almost all of his time in programs with other people with disabilities. The staff did not appear to be aware of the importance of the aforementioned needs. Furthermore, although the staff has had training in person centered approaches, they do not seem to have knowledge or expertise in supporting Focus Person F to truly become part of his community.

Another area of Focus Person F's life that is not being addressed adequately is employment. Focus Person F did have a part time job when he lived at Cambridge. When he moved to Richfield, he was placed in a traditional day program. He is offered paid "work" such as mowing a strip of lawn, cleaning up a parking lot, etc. for ½ hour a day in this program. This kind of activity does not build Focus Person F's resume or competence for competitive employment within his community. Focus Person F is very clear that he wants a job and wants to earn money. He has been talking about this for a very long time and has ideas about the kinds of jobs he would like to explore. Focus Person F's desire for a job was noted on his person centered profile and transition plan. Yet, it does not appear that his need for paid employment is being taken seriously.

The reviewers are concerned that Focus Person F is taking seven psychotropic medications and may be exhibiting what appear to be side effects of these medications. There seems to be no plan to reduce the dosages of these medications or to eventually discontinue any of them.

Focus Person F left Cambridge with a good transition plan and high hopes for a better life. He moved into a typical neighborhood in the middle of a typical community. The staff in his home, and to some degree the staff in the day program, are positive and have embraced person centered thinking. However there are still large gaps in Focus Person F's life and important needs that are not being addressed.

Focus Person F's experience of transition from the institution to the community illustrates that there is still much room for improvement in the community system. If this does not happen, it is clear that the promises of a better life made to people moving out of institutions, including Focus Person F, will not all be realized.

In conclusion, Focus Person F's life differs greatly from that of a typical 26-year-old man. While he has moved out of Cambridge, is living in a nice house and has staff there who are well trained and know him well, and has a place to go during the day, he is still very much in the role of a client of a traditional service system.

VI. Findings and Recommendations

A. Findings

The Court Monitor finds that the State has failed to comply with the transition elements of the Settlement Agreement with regard to provision of adequate and appropriate transition plan, protections, supports, and services consistent with each person's individualized needs. This conclusion is based on the history of this case, information from case managers state-wide and others, the work of the Department of Human Services (DHS) itself, and on a comprehensive review of individuals who transitioned from MSHS-Cambridge under the Settlement Agreement.[28]

There have been positive developments recently, however.[29] The State, through the Department of Human Services, has recognized that it must do

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[28] Consider:

- The results here are consistent with those of a DHS-commissioned study of the placement of three individuals from a hospital under the same provisions of this court order.
- The concerns raised in this review mirror concerns expressed (and not disputed by DHS) in several prior reports by the Court Monitor.
- Deficiencies in case management have been acknowledged by DHS in multiple reports to the Legislature, and reforms have not yet been adopted.
- A survey by the Court Monitor of case managers for multiple individuals placed after the Settlement Agreement was adopted reflects their general ignorance of the court's order and that the individual they supervise has entitlements under the order.

[29] There are positive counter-examples to the overall negative assessment. For example, a) a former METO/Cambridge resident served directly by the Department of Human Services is served in a residence with generally positive care, in compliance with the court's orders; b) MSHS-Cambridge in the last year developed an excellent transition planning process and document, c) there are "points of light," individuals deeply involved in community services who are exemplars; standouts include Dr. Tim Moore (MSHS-Cambridge), Todd Buckingham (DHS community services), David

more to ensure that the counties comply with the court's mandates,[30] and DHS Commissioner Lucinda Jesson has personally conveyed that message to county officials. MSHS-Cambridge over the past year has developed a person centered plan process and template, which can serve as a foundation for state-wide efforts in this regard. For the several hundred individuals who left METO/Cambridge under this lawsuit, a special intensive monitoring will be in place to safeguard them in the community.[31] Training in the community is in process, albeit slowly and disjointedly. Hopefully, implementation of the Olmstead Plan is also likely to be a positive influence.

That said, this report finds that:

1. The Department of Human Services does not effectively ensure that counties and licensed providers were prepared for the implementation of person centered planning and transition plans for individual who transition to the community.

Blom (DHS behavior analyst), and Steve Benton (Hennepin County Case Manager).

[30] See Comprehensive Plan of Action (adopted by Order of March 12, 2014, Dkt. 284):

[Applicability:] Consistent with its obligations under the Settlement Agreement, applicable law, and the federal court orders in this case, the Department of Human Services shall utilize best efforts to require counties and providers to comply with the Comprehensive Plan of Action through all necessary means within the Department of Human Services' authority, including but not limited to incentives, rule, regulation, contract, rate-setting, and withholding of funds. (p. 2).

[Evaluation Criterion/Action 72.2] Each county and tribe as relevant, will have a system of locally available and affordable services to serve persons with developmental disabilities.

[31] Comprehensive Plan of Action at 30. Evaluation Criterion 98:

DHS will maintain therapeutic follow-up of Class Members, and clients discharged from METO/MSHS-Cambridge since May 1, 2011, by professional staff to provide a safety network, as needed, to help prevent re-institutionalized and other transfers to more restrictive settings, and to maintain the most integrated setting for those individuals.

2. County case managers, and the licensed providers serving the individuals, are not informed regarding the existence of the court's orders and the standards under those orders.[32]

3. Former METO/Cambridge residents under county auspices are not being served in compliance with the Court's orders. Counties are failing to implement the person centered planning and transition requirements of the Settlement Agreement. The benefits of fine transition plans developed at MSHS-Cambridge, with county involvement, are being lost when the individual moves to the community, especially into programs run by provider agencies.

4. The counties' responsibility for non-compliance is significantly moderated by the State's inaction (or delayed action) in responding to the repeated notice by the Court Monitor of the essential need for attention to counties' in implementation of the orders.

5. The consequence of these deficiencies is that individuals with disabilities are being "supported" in community living which is not individualized, does not capitalize on their strengths, and which constricts their choices and freedom. Some situations are more life-wasting than life-fulfilling.

B. Recommended Remedial Action

The situation calls for robust remedial action. Although one would expect the cooperation of the State, such remedies would appropriately be founded upon orders of the court providing additional relief. The enterprise should be under the leadership of the DHS Commissioner, and include vital involvement of counties and provider agencies.

The remedy should entail:

- a zealous initiative with focused committed leadership;

[32] On County case management, *see* Minn. Stat. 9525.0012 (responsibility); 9525.0024 (individual plans; service standards; use of providers) Minn. Stat. 245D (home and community based services);

- an integrated, coordinated, state-wide training and implementation effort;
- a program focused on prompt urgent action;
- accountability and monitoring are key.[33]

Piecemeal action should be avoided. Time-consuming committee and commission work should be minimized if not eliminated.

C. The Scope of Remedial Action

What should be the scope of remedial action?

On the one hand, the person centered, transition planning and implementation requirements in the Settlement Agreement and the Comprehensive Plan of Action (and remedies for non-compliance) – by the terms of the Agreement -- apply only to those individuals who left METO and MSHS-Cambridge.

On the other hand, it would be difficult if not impossible – and certainly impractical – to create a two-class developmental disabilities system, with the METO/Cambridge individuals receiving special attention that others in the community do not receive. The specter of two clients, living in the same home or working side by side at a job site, having widely different entitlements is one, which ought not come to pass.

On the "third" hand, the parties' joint intention is that the settlement and its implementation will transform services state-wide, having the broadest impact.

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[33] The Court's enforcement authority is sufficient to ensure compliance. In addition, the Monitor notes that no legislative authority is needed; the DHS Commissioner has extensive power under state law with regard to the counties which are agents of the State, and the counties have existing state law responsibilities to individuals with developmental disabilities.

The Court Monitor concludes that the extensive community integration effort should be statewide and not confined solely to those discharged from METO/Cambridge. We draw this conclusion because:

- There is nothing in the standards under the court's orders that is unique to the METO/Cambridge group.
- The court-ordered standards are generally applicable and accepted professional requirements in the developmental disabilities field.
- The Olmstead Plan, in any event, generally applies the person centered planning and implementation rubric.
- Practically, implementation could not occur efficiently or fairly in a two-class system.

This approach is supported by the parties' early representations. The settlement in this case was accompanied by triumphal pronouncements that it heralded widespread change for "hundreds of thousands" of people and would "set the tone" nationally.[34]

D. Judicial Enforcement

The Court Monitor presents this report's findings for the Court to consider any appropriate judicial enforcement proceedings.

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[34] Order of December 20, 2012 at 8-9 (Dkt. 188) (quoting the transcript of the settlement approval hearing). Plaintiffs stated that the settlement "will benefit hundreds of thousands of people in this state." Plaintiffs also stated that the settlement's "unprecedented comprehensive positive changes in the daily protections afforded not only Class members but all people with developmental disabilities in this state is reasonable and meaningful."). Defendants concurred with Plaintiffs and stated:

And again, it will greatly improve the quality in care of the lives of a large number of persons with disabilities, not only in Minnesota, but we have people that come through Minnesota. And it will impact them, as well. And we think that this agreement will set the tone for other states, as well.

While the scope of the remedial action should be broad, the Court Monitor believes that the Court's enforcement authority may reasonably (in the Court's discretion) be limited at this time to the provisions of the Court's orders. That enforcement, nevertheless, would well be informed by the broad failure for more than two years to adequately attend to the systemic issues addressed in this report.

The Court has in effect warned the State that transition planning is not an afterthought with regard to enforcement.

> Defendants are not free to defer or to pick and choose which provisions and directives of the Settlement Agreement to comply with. The Court has an "obligation to oversee, facilitate, and, yes, enforce compliance with the terms of this Settlement Agreement that will benefit so many for years to come." Order of July 17, 2012 at 12. (Doc. No. 159). *See* Order of December 20, 2012 at 3 (Doc. No. 188) (same).

Order of August 28, 2013 (Dkt. 224) at 10 (in discussion immediately after reference to transition planning). In the same 2013 order, and citing a 2012 order, the Court singled out community integration as a particular concern regarding non-compliance:

> The Court continues to be extremely concerned with the sluggish pace of implementation of the specific terms of the Settlement Agreement and the resulting noncompliance.[5]
>
> Note 5:
> "The Court deems this an opportune and appropriate time to consider the pace of Defendants' implementation of the obligations they undertook both as to the facility and system-wide, including but not limited to community integration under *Olmstead v. L.C.*, ..." Order of November 5, 2012 at 2 (Doc. No. 179) (setting status conference). *See Letter to Parties*, November 12, 2012 (Doc. No. 184) (noting review of pace of implementation).

Order of August 28, 2013 (Dkt. 224) at 10.

VII. Conclusion

The Court Monitor respectfully submits this report to this Honorable Court for its review and action.

Respectfully submitted,

/s David Ferleger

June 20, 2014

APPENDIX A

APPENDIX A: Community Review Consultants

A. Melanie Reeves Miller

For more than twenty years, Ms. Miller has dedicated her career to ensuring people with disabilities leave institutions and congregate long-term care settings for meaningful lives in homes in the community with supports and services designed to promote development of meaningful relationships; attainment of productive work, retirement, and volunteer opportunities; participation in community life; personal decision-making, and training to become as self-sufficient as possible.

From 1998 to the present, Ms. Miller has been *Special Assistant to the Quality Review Panel in People First v. Clover Bottom Developmental Center, et al., in federal court in Tennessee, as* staff to four-person review panel established as part of the Settlement Agreement in that case. Her primary responsibilities include development and revision of protocols utilized in compliance reviews for developmental center and community services provided to members of the plaintiff class; coordination of annual compliance reviews to ensure services are being provided in accordance with the Settlement Agreement; preparation of reports of the Panel's review findings; ongoing monitoring of individual issues and DIDD systems in relation to compliance with the Settlement Agreement.

From 1996 to 1998, Ms. Miller served the State of North Carolina as *Thomas S.* Service Manager, for the North Carolina Department of Health & Human Services, Division of *MH/DD/SAS. She was the* Division's point of contact with assigned area programs for the completion of annual implementation plans relative to the *Thomas S. v. Flaherty* federal class action lawsuit; coordinated responses to inquiries from plaintiff attorneys and Special Master; approved and monitored the implementation of individual service plans; approved and negotiated development of cost-containment strategies and projected budgets; demonstrated cost-effectiveness in financial management of long-term supports for persons with disabilities; provided formal technical assistance to area programs by review of services and system supports provided to class members and review of fiscal management; monitored assigned area programs' progress on service development, implementation and placement activities; served on a State-wide monitoring review team to ensure quality of plans and reports submitted by area programs; served as State-wide trainer in person-centered planning and monitoring.

Prior to her work for the state, Ms. Miller was the *Thomas S.* Coordinator for New River Area Developmental Disabilities Services from 1994 to 1996. She served as liaison to State and Court officials to ensure quality improvement and compliance with the Thomas S. v. Flaherty class action lawsuit. She had supervisory and

administrative responsibility for Thomas S. program and service coordination and she coordinated the local review of class member service plans and annual Status Review by plaintiff attorneys, Special Master. Ms. Miller also monitored services for twenty-six confirmed members of the class and thirty prospective class members; provided oversight of contracted agencies regarding service development and implementation and Court Order compliance; and served as area program liaison to psychiatric hospital screening teams.

Previously, Ms. Miller was Residential/Program Manger for Community Living Concepts of North Carolina, Inc. (1992 to 1994). In that capacity, she participated in transition planning and service provision during de-institutionalization phase of the Thomas S. v. Flaherty class action lawsuit, developed residential programs in the Western region of North Carolina, and provided supervisory and administrative oversight of direct support staff and acted as hire and discharge agent for the company. Ms. Miller coordinated initial and annual individual support plans and provided case management linking individuals to services in the community. Before that work, Ms. Miller provided direct support to individuals with developmental disabilities in residential and day program settings; served as personal advocate; participated in treatment planning process at RHA, Inc. – New River Program 1992-1993.

B. **Elizabeth Neuville**

Elizabeth Neuville has served as Executive Director of the Keystone Institute for more than a decade. She has over 28 years of experience as a human service worker, administrator, agency director, service evaluator, educator, and personal advocate, as well as extensive experience in designing and developing supports for very vulnerable people, meaningful quality measurements, and extraordinary employee development programs.

She began her work with vulnerable people in 1986, as a support worker in a small community home for three men who had recently left an institution – and has continued her commitment to personal human service ever since. In 1988 she was hired by Keystone to help 20 people leave institutions and establish themselves in their home communities in Lancaster County. She spent her first year with those twenty people and their families, planning and envisioning new lives liberated from the institution, and walking with them as they entered their new lives and began to craft a more positive future. She had chosen Keystone because of its clear commitment to Normalization, a concept first introduced to her in 1987.

Ms. Neuville served as Executive Director of Keystone Human Services of Lancaster for 13 years, designing and directing supports for adults and children with developmental disabilities and/or mental disorders. To her credit, she has assisted over 200 people to leave institutions and establish themselves as valued and contributing members of their communities. Equally important, she has been involved with the closure of several large institutions, and she established the use of

person-centered processes to assist people to gain a vision of full, rich, community lives. Ms. Neuville led Keystone in gaining a reputation for successfully supporting people who many others had given up on, and has mentored a number of passionate change agents to carry on this work.

The Keystone Institute specializes in providing educational experiences for people who are interested in making life fuller and richer for some of the most vulnerable people within societies. In her role as Executive Director, she consults, partners, and teaches extensively, both within Keystone and externally.

Ms. Neuville has worked extensively with the ideas of Normalization and Social Role Valorization, and provides training and consultation both nationally and internationally. She is fully accredited by the North American Social Role Valorization as a senior trainer of SRV. She has taught SRV and Passing in Canada, across the United States, Ireland, Holland, Turkey, Azerbaijan, Romania, and the Republic of Moldova. She studied under the mentorship of Dr. Wolf Wolfensberger, the developer and foremost proponent of Social Role Valorization, and has, in turn, mentored and supported a generation of people committed to personal human service to others. She remains closely personally connected to people who are vulnerable, and holds particular interest in the historical treatment of people with disabilities. She has assessed human service program quality using the rigorous standards of PASSING in Pennsylvania, Ontario, Alabama, and Nebraska, and is an experienced team leader.

She began involvement with using the tools and techniques of Person Centered Planning in 1992 as a means to move people towards better lives, and has extensively studied and used the work of Beth Mount in Personal Futures Planning and Jack Pearpoint in PATH and MAPS. She has taught person centered planning techniques across North America, and in deinstitutionalization projects in Romania, the republic of Moldova, and Azerbaijan. She has developed techniques which merge the use of traditional PC planning with Social Role Valorization and Model Coherency, increasing the likelihood that such processes will involve identifying and meeting true needs, as well as incorporating the use of valued social roles.

She also develops material and teaches on many topics beyond SRV and person centered planning, including Hospitality, American Eugenics, Person Centered Planning, Moral Treatment, Organizational Values in Action, and many other areas. She leads the Keystone Institute in their work of developing top quality workshops and events relating to not only what their work is all about – but why it really matters.

Ms. Neuville and her husband Thomas live in New Holland, PA, and have two children, Steven and Sarah.

C. Ronnie Cohn

Over the past thirty years, Ms. Cohn has been immersed in class action litigation based upon the rights of people with disabilities to live meaningful lives created through appropriate supports and services being provided in the most integrated settings possible. Prior to that, her work was in positions of direct support, program administration, advocacy and policy development.

Following is a summary of her involvement in such cases since 1984.

2005 – Present, Independent Professional Evaluator, Quality Review Panel, Nashville, Tennessee
People First v. Clover Bottom

In order to determine whether or not class members who lived at Clover Bottom and Greene Valley Developmental Centers should move to homes in the community, completed independent evaluations of those class members who were not recommended for community placement by their interdisciplinary teams.

2005 – 2008, Expert Consultant, Disability Rights California, Oakland, California
Capitol People First v. Department of Developmental Services

Reviewed records of individuals living in developmental centers and other institutional settings; reviewed professional research, statewide policies and procedures; developed community review protocols and reports; consulted with attorneys.

1997 –Present, Expert Consultant
Quality Review Panel, Nashville, Tennessee
People First v. Clover Bottom

Participated in development, revision and implementation of protocols for both institution and community reviews; evaluated transition planning. Currently conducting individual reviews with class members who live in the community throughout Tennessee.

1993 – Present, Independent Evaluator for the Willowbrook Class
New York State ARC v. Cuomo

Developed protocol for and initiated implementation of intensive monitoring of 220 members of the Willowbrook class to ensure compliance with the Willowbrook Permanent Injunction as well as appropriateness of community placements and placement plans; developed and implemented an auditing system to evaluate residential, habilitation and case management supports and services provided for approximately 3500 class members; monitored correction of

identified deficiencies and maintenance of those corrections. Currently evaluating service development and overseeing the impact of case management services and provision of appropriate supports and services to facilitate class members' engagement with their families and communities, maintenance of their health, exercise of self determination and enjoyment of the entitlements of the Permanent Injunction.

1999- Expert Consultant, United States Department of Justice
Wyatt v. Sawyer

Participated in compliance reviews at three developmental centers in Alabama and prepared reports of findings.

1999- Consultant, Office of the Special Master
United States v. State of Connecticut

Participated in development and implementation of audit protocol for compliance review at Southbury Training School.

1996 – 1997- Consultant
Protection and Advocacy, Inc., Oakland, California
William Coffelt v. California Department of Developmental Services

Participated in development of protocols for individual program planning and evaluation; reviewed individual plans for members of the Coffelt class and developed recommendations for improvements in plans.

1993 – 1996- Independent Expert Consultant
Rights, Equality Always at Letchworth, Inc. v. Cuomo

Evaluated services provided to individuals in a large institutional setting; reviewed placement plans for these individuals and closure plans for the institution; identified areas of non-compliance with relevant court orders; developed recommendations to improve services and facilitate individual placement planning; prepared reports to the Court and the parties.

1991- 1993- Independent Expert Consultant
Society for Good Will to Retarded Children v. Cuomo

Evaluated the environment, staffing, programs and incidents at a large institution and identified areas of non-compliance with court orders relevant to this class action; reviewed placement planning system and closure plan for the institution; prepared reports to the Court, encompassing findings and recommendations, until closure of the institution in May, 1993.

1985 – 1989- Consultant

Mansfield Class Panel of Monitors, Hartford, Connecticut
Connecticut ARC v. Thorne

Evaluated residential, educational and vocational services; participated in the development of Court Monitors' quality assurance system in Connecticut Association for Retarded Citizens v. Thorne Consent Decree.

1984 – 1993- Staff to the Willowbrook Office of the Special Master
NYSARC v. Carey

Evaluated community and institutional services; developed and coordinated auditing systems; identified areas of non-compliance with the Willowbrook Consent Judgement; participated in negotiations with the Willowbrook parties; participated in placement planning and development of resources in the community prior to the closure of the Willowbrook State School in 1987.

D. Darcy Elks

Ms. Elks is an educator, consultant, evaluator, and advocate. In the 1970's Ms. Elks became fully committed to the closure of institutions as a result of working in Willowbrook. Since this time, Ms. Elks has worked to assist in the creation of high quality person centered supports on behalf of vulnerable and marginalized people. She has been involved in deinstitutionalization efforts both nationally and internationally and has evaluated many different kinds of community services. As well, Ms. Elks is one of the key teachers and implementers of the concept of Social Role Valorization, which has provided some of the important underpinning for successful deinstitutionalization.

Ms. Elks professional background includes:

- 20 plus years of work dedicated to assisting people with disabilities, their families, and service organizations to assist people to move out of (or stay out of) institutions and live full, meaningful, and inclusive lives within their communities.
- Thorough knowledge of community services and best practices that promotes inclusive lifestyles.
- In-depth knowledge of Social Role Valorization that capitalize on the power of valued social roles to open up access to the good things in life for people who have been marginalized.
- Extensive experience in the application of Social Role Valorization in individual lives and within and across community services.
- Development of family and human service leadership with the ability to design coherent and inclusive person centered support and services.

- Evaluation of service initiatives using PASSING, an evaluation instrument that is based on Social Role Valorization and looks at the quality of a service through the eyes of the people who use the service.
- Support of families as they assist their family member to enter into valued social roles and become a contributing member in their communities.

APPENDIX B

APPENDIX B

Community Compliance Review Methodology

A. Standards

The standards against which the community compliance review results are measured are those in the 2011 Settlement Agreement's "transition planning" section described above.

The standards today are more robust, but the Court Monitor chose to assess compliance based on the more lenient and well-established standards originally set in this case. The review took place almost four months after the Court's adoption of the Comprehensive Plan of Action (CPA), which elaborated the transition and person centered requirements of the Settlement Agreement.[35] The CPA standards were not the basis for this review.

B. Selection of Sample

292 individuals were transitioned from METO from the 1997 beginning of the class definition period to the July 1, 2011 date of METO's changeover to MSHS-Cambridge.[36] Although they became entitled to receive settlement-compliant care upon approval of the settlement, the Court Monitor chose not to include them in the pool for review, to maximize the pool's inclusion of individuals transitioned after the Court's establishment of the community standards under the settlement.

The pool from which the individuals in this review were chosen are those 45 individuals identified by DHS during the review formulation as

[35] *See, e,g*, CPA EC 47 through 53. Order of March 12, 2014 (Dkt. 284).

[36] The number excludes those who are deceased.

having been transitioned from MSHS-Cambridge after its July 1, 2011 establishment.[37]

The consultants narrowed the list of 45 individuals by selecting Hennepin County and the counties surrounding Hennepin: Anoka, Ramsey, Dakota, Scott, Chaska, Buffalo, Sherburne for a two week review. This narrowed the list to 11 individuals. A sample of 6 individuals was selected randomly from the 11 for the first week.

Thus, each of the individuals reviewed is a person known to DHS and, based on the state requirements for case management, expected to be known to case managers as a person covered by the Settlement Agreement.

Individual	Age	Case Management County	Admission (METO or Cambridge)	Discharge (METO or Cambridge)
A	21	Dakota	7/25/13	3/18/14
B	24	Dakota	3/19/08	4/2/12
C	24	Dakota	6/17/09	4/2/12
D	41	Hennepin	11/23/10	8/15/12
E	46	Hennepin	5/7/12	6/7/12
F	26	Hennepin	4/19/06 10/29/12	1/27/09 12/3/13

All the clients reviewed moved to the community post-Cambridge at least 16 months after adoption of the Settlement Agreement. The 6 individuals constitute 13% of the 45 in the pool.

Due to the consultant's consistent acutely negative findings in the first week, the Court Monitor determined that the second week review would not take place, and directed the consultants to spend at least that time preparing their reports.

[37] Note that the Settlement Agreement had been filed with the Court on June 11, 2011 (Dkt. 104).

C. Development of the Evaluation Tool

This is a review of compliance with a court order. The four consultant reviewers each have decades of experience in the field, including direct services, management and evaluation, as well as experience in monitoring compliance with court orders. Also, they have far-reaching experience in the development, use and analysis of professional evaluation tools.[38]

The reviewers met several weeks before the review to develop an evaluation tool which would assay compliance with the transition and person centered elements of the Settlement Agreement. They considered numerous relevant national and other instruments and developed the tool which would be used here.[39] The evaluation tool is an appendix to this report.

[38] The consultant reviewers experience is set forth in an Appendix to this report.

[39] The format for some of the tool, albeit with significant revision of content, was borrowed (permission acknowledge) from that developed for DHS by by the University of Minnesota's Institute on Community Integration (ICI) for a review of three individuals who had been at MSHS-Cambridge. The Court Monitor acknowledges the work of Amy Hewitt and Susan O'Dell at ICI in this regard.

APPENDIX C

COMMUNITY COMPLIANCE REVIEW TOOL

Focus:

Reviewers

Date(s) on-site

Jensen v. Department of Human Services
United States District Court for the District of Minnesota
David Ferleger, Court Monitor

Table of Contents

FOCUS PERSON:

AGE: DATE OF BIRTH: M ☐/ F ☐

RESIDENCE:

TELEPHONE: (Focus Person): (Home/Facility of Person)

PRIMARY RESPONDENT AT RESIDENCE

Name: Agency: Title / Relationship: Telephone:

CASE MANAGER	**RESIDENTIAL PROVIDER CONTACT #1**
NAME	RESIDENTIAL PROVIDER CONTACT #2
AGENCY/COUNTY	AGENCY/ENTITY
ADDRESS	ADDRESS
TELEPHONE	TELEPHONE

VOCATIONAL/DAY/EMPLOYMENT	**OTHER PROVIDER CONTACT #1**
NAME	NAME
AGENCY/COUNTY	AGENCY/ENTITY
ADDRESS/ TELEPHONE	ADDRESS/ TELEPHONE

MREC # PMIN #

PARENT #1	**PARENT #2**
ADDRESS	ADDRESS
CITY/STATE/ZIP	CITY/STATE/ZIP
ADDRESS/ TELEPHONE/EMAIL	ADDRESS/ TELEPHONE/EMAIL

GUARDIAN	**OTHER**
ADDRESS	ADDRESS
CITY/STATE/ZIP	CITY/STATE/ZIP
ADDRESS/ TELEPHONE/EMAIL	ADDRESS/ TELEPHONE/EMAIL

LIVING ARRANGEMENT (MARK "W" if a Waiver Program)

- ☐ With family or friends
- ☐ Housing with services
- ☐ Supervised living facility
- ☐ Boarding home
- ☐ Transitional housing
- ☐ Nursing home / assisted living
- ☐ Adult foster care
- ☐ ICF/DD
- ☐ Jail/Prison
- ☐ Other

BEDROOM IS SHARED WITH: ☐ No other person ☐ # other persons

NUMBER OF PEOPLE IN THE RESIDENCE:

☐ People with disabilities ☐ People without disabilities

☐ TOTAL including ☐ paid staff who live in the residence

STAFFING IN THE RESIDENCE ☐ Full-time ☐ Part-time (all shifts)

DISCHARGED ☐ (date)

from ☐ METO ☐ MSHS-Cambridge

Other ☐

RACE

☐ White/Caucasian ☐ Black / African-American
☐ Native American ☐ Asian
☐ Hawaiian or Pacific Is. ☐ Hispanic / Latino
☐ Other: ☐ Refused / Unknown

MARITAL STATUS

☐ Never Married ☐ Married Now
☐ Married in past, Single ☐ Refused/Don't know

PARENTAL STATUS

☐ No children ☐ No. of children
Name/s & ages of children:

LEGAL STATUS

☐ No guardian or conservator
☐ Guardian ☐ Don't know

NOTES

Introduction

This tool makes individual compliance finding recommendations regarding the *Jensen v. Department of Public Welfare* court orders' expectation that person-centered, adequate and appropriate protections, supports, and services must be provided to individuals transitioned from MSHS-Cambridge to community settings. Through observation (O), interview (I) and record review (R), the following are assessed and rated. (The minimal standards applied are drawn from the Settlement Agreement).

Section A consists of Compliance Standards which must be met for the person. Each Standard is accompanied by indicators, the presence of which support or contradict a finding that compliance exists; these are rated yes (Y), no (N) or don't know (DK). An overall rating of "compliance" or "non-compliance" for each Compliance Standard is assigned for each person for each Standard. The Standards are:

1. Individual and Family Involvement: 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.

2. Person-Centered Principles and Processes: To foster each person's self-determination and independence, person-centered planning principles shall be used at each stage of the process to facilitate the identification of the person's specific interests, goals, likes and dislikes, and abilities and strengths, as well as support needs.

3. Choice and Quality of Life: Each person shall be given the opportunity to express a choice regarding preferred activities that contribute to a quality of life.

4. Alternatives: Best efforts shall have been undertaken to provide each person with reasonable alternatives for living and working.

5. Provision of Adequate Services in Integrated Settings: Each person shall be provided with adequate and appropriate transition plans, protections, supports, and services consistent with such person's individualized needs, in the most integrated setting and where the individual does not object.

Section B examines domains, which are relevant to compliance and protection from harm. These are:

1. Circumstances which require further investigation
2. Autonomy, Rights, and Choices
3. Physical Setting
4. Family and/or Legal Representative
5. Urgent Concerns

Except in special situations (for example, where harm, maltreatment, or risk of institutionalization are implicated, or where situations affect multiple individuals), concerns in these domains would not be the basis for a recommendation of non-compliance. However, concerns or strengths in these domains may be the basis for remediation or other recommendations, or for commendations.

An **Individual Report** summarizes the results of the workbook review encompassed in Sections A and B of this tool.

Section A
Compliance Standards

Compliance Standard 1: Individual and Family Involvement. *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.*

Individual Indicators	Method O, I, R	Y	N	D/K	Evidence
(If any Indicators are ranked "no," the entire Standard is deemed as "non-compliance.")					
1A. The person's preferences and expectations are the basis for the goals and outcomes of the plan.	O, I, R				
1B. Identified goals and outcomes of the plan began with the preferences and expectations of person and/or important others and are not limited or defined by what is available within the system.	O, I, R				
1C. No decision regarding the plan is made without the person's input and, when appropriate, the input of important others.	I, R				
1D. Accommodations and strategies to support effective communication and planning are tied to the unique needs of the individual and important others. These include things like cultural patterns/alternate language or communication forms, pacing to meet the person's speed of processing, and other aspects of communication and planning.	O, I, R				
1E. Interactions between the person, his or her important others, and professionals are cooperative and respectful, with professionals taking responsibility for solving communication issues or conflicts should they arise.	O, I, R				
1F. When people ask for or would benefit from options that are not currently available, these are not forgotten or ignored but are acknowledged and incorporated into the plan (with clear steps and timelines) as things to work on and advocate for (by professionals in the system as well as the person and his or her important others).	O, I, R				

Based on the evidence gathered in observation, interview and record review of the required and supporting indicators ***Compliance Standard #1 Involvement of the Individual and Family*** is rated as (Circle one):

☐**Compliance** ☐**Non-Compliance**

Please summarize the key aspects regarding *concerns* in this area of compliance and provide documentation (*e.g.,* field notes, sections of records, statements from interviews):

Please summarize the key aspects regarding *strengths* in this area of compliance and provide documentation (field notes, sections of records, statements from interviews):

Compliance Standard 2: Person-Centered Principles and Processes. *To foster each person's self-determination and independence, person-centered planning principles are used at each stage of the process to facilitate the identification of the resident's [person's] specific interests, goals, likes and dislikes, and abilities and strengths, as well as support needs.*

Individual Indicators	Method O, I, R	Y	N	D/K	Evidence
(If any Indicators are ranked "no," the entire Standard is deemed as "non-compliance.")					
2A. The basis of services and support now and in planning for the future is from person-centered understanding of the person (*i.e.* strengths, assets, goals, and preferences, as well as needs are identified and used to organize services and supports).	O, I, R				
2B. Professionals are observed honoring this person-centered view of the person in their communication about and actions toward the person.	O, I, R				
2C. Important information about the person that includes specific interests, goals, likes and dislikes, and abilities and strengths, as well as critical support needs are easily available and understandable for anyone who provides support or services to the person.	O, I, R				
2D. Staff identifies training and support they have participated in that helps them understand how to apply person-centered support as it applies to this person and in keeping with the expectations of the MN Olmstead Plan.	I, R				

Based on the evidence gathered in observation, interview and record review of the required and supporting indicators ***Compliance Standard #2*** is rated as (Circle one):

☐**Compliance** ☐**Non-Compliance**

Please summarize the key aspects regarding *concerns* in this area of compliance and provide documentation (field notes, sections of records, statements from interviews):

Please summarize the key aspects regarding *strengths* in this area of compliance and provide documentation (field notes, sections of records, statements from interviews):

Compliance Standard 3: Choice and Quality of Life. *Each person shall be given the opportunity to express a choice regarding preferred activities that contribute to a quality of life.*

Individual Indicators	Method O, I, R	Y	N	D/K	Evidence
(If any Indicators are ranked "no," the entire Standard is deemed as "non-compliance.")					
3A. The person's range of choices and potential activities are similar to a person who has never been institutionalized and does not experience disabling conditions and include each of the following aspects. When choice and experiences in these areas are not similar to person's without disabilities or histories of institutionalization, specific planning and steps that are likely to reengage these aspects are in evidence and are likely to lead to growth in these areas for this person): *(A rank on sub-items is used to help determine the robustness of this overall indicator. A "No" on separate items will inform the sufficiency of whole of this indicator and of overall sufficiency of the broad indicator but will not negate the entire indicator.)*	O, I, R				
3Aa. Expectations, hopes and goals;	O, I, R				
3Ab. Where the person lives;	O, I, R				
3Ac. Who the person lives with;	O, I, R				
3Ad. Opportunities for work/employment or schooling;	O, I, R				
3Ae. Who the person spends time with and quality and quantity of relationships;	O, I, R				
3Af. Status and opportunities to contribute;	O, I, R				
3Ag. Things to do and places to go;	O, I, R				
3Ah. Rituals or routines;	O, I, R				
3Ai. Rhythm or pace of life;	O, I, R				
3Aj. Possessions and access and control in environments.	O, I, R				
3B. People can express the choices that are the most important to them in the support situation.	I				
3C. People indicate being satisfied with the choices they have.	I				
3D. Important others are treated as integral to the person's life; they are welcomed, given privacy when visiting, included appropriately in communication, and treated with respect by staff and professionals.	O, I, R				
3E. Staff are observed and report skills in encouraging and supporting meaningful relationships as appropriate to the person's needs and desires.	O, I, R				
3F. There is evidence that services and supports are flexible to meet the person's needs as he or she changes in capacity and experiences.	O, I, R				
3G. Staff continuity					

Based on the evidence gathered in observation, interview and record review of the required and supporting indicators ***Compliance Standard #3*** is rated as (Circle one):

☐**Compliance** ☐**Non-Compliance**

Please summarize the key aspects regarding *concerns* in this area of compliance and provide documentation (field notes, sections of records, statements from interviews):

Please summarize the key aspects regarding *strengths* in this area of compliance and provide documentation (field notes, sections of records, statements from interviews):

Compliance Standard 4: Alternatives. *Best efforts shall be undertaken to provide each person with reasonable alternatives for living and working.*

Indicators	Method O, I, R	Y	N	D/K	Evidence
(If any of these are ranked "no," the entire Standard is deemed as "non-compliance.")					
4A. People live with easy access to important others and/or events/places that are important to them. When they do not, they describe this as a choice based on other priorities (such as an excellent job, affordable housing, or preferred schooling in the area). These priorities do not include system-limits (such as no options in community of choice).	O, I, R				
4B. If the person is not currently in the correct living or working arrangement due to system or community limits, there is good evidence of persistent, coordinated efforts to move them toward their goals. Achievement is likely in a reasonable amount of time and does not appear stalled.	O, I, R				
4C. People and their important others demonstrate and report satisfaction with where the person lives with, with whom he or she lives, and opportunities for work or other meaningful activities.	I				
4D. People and their important others indicate the person was given preference and choice about where and with whom they live that matched their choices and priorities and provided enough support.	I				
4E. People report good support regarding employment or similar community opportunities for contribution, development, and status that is based on their preferences, goals, strengths and expectations.	I				

Based on the evidence gathered in observation, interview and record review of the required and supporting indicators ***Compliance Standard #4 Life Options and Alternatives*** is rated as (Circle one):

☐**Compliance** ☐**Non-Compliance**

Please summarize the key aspects regarding *concerns* in this area of compliance and provide documentation (field notes, sections of records, statements from interviews):

Please summarize the key aspects regarding *strengths* in this area of compliance and provide documentation (field notes, sections of records, statements from interviews):

Compliance Standard 5: Provision of Adequate Services in Integrated Settings. *Each person shall be provided with adequate and appropriate transition plans, protections, supports, and services consistent with such person's individualized needs, in the most integrated setting and where the individual does not object.*

Individual Indicators	Method O, I, R	Y	N	D/K	Evidence
(If any of these Indicators are ranked "no," the entire Standard is deemed as "non-compliance.")					
5A. Supports, protections, and services that are likely to be needed for success in the community are identified in the plan.	O, I, R				
5B. When gaps in support, protections, and services for community success are identified, additional resources are obtained as needed to maintain successful living in the community.	O, I, R				
5C. The person engages in full range of living, working, schooling, and community options typical to peers without disabilities.	O, I, R				
5D. The person has friends, with whom s/he wants to spend time, and with a valued status.	O, I, R				
5E. The person experiences stability and is supported in positive return to community if crisis hospitalization is needed. Significant or repeated interruptions in employment, school, and living arrangements due to crisis or unmet needs are minimal or absent.	I, R				
5F. For people who have no or very few current relationships or the ability to connect to their own strengths and successes, rigorous efforts are undertaken to identify appropriate people who can support the person's success in the community by identifying strengths and interests or by serving as a natural support. This can include positive (supported) reconnection to family, friends, peers, and appropriate others who like or admire the person or are connected to the person's past successes (such as coworkers, members of a spiritual community, past housemates or staff).	O, I, R				
5G. Staff are observed and report skills in encouraging and supporting meaningful relationships as appropriate to the person's needs and desires.	O, I, R				
5H. The person lives alone or with people he or she cares about, willingly choses, and enjoys.	O, I				
5I. The person has access to competent clinical professionals of his or her choice for effective assessment, diagnosis, and treatment in any area of physical and mental health condition (including substance misuse and addiction), and preventative care sufficient to avoid unnecessary physical or mental health crisis and to enjoy an overall quality of life.	O, I, R				
5J. The person has access to adaptive devices, equipment and accommodations, and to transportation, as needed to support his or her achievement of the goals of the plan.	O, I, R				

Individual Indicators	Method O, I, R	Y	N	D/K	Evidence
5K.The paid non-clinical staff hired to support people are qualified, have needed skills, are stable, are well-matched to the person, and are able to complete their job duties in ways that support the person's inclusion, support of the plan, and achievement of goals.	O, I, R				
5L. Any living arrangement, day service, or other service which is administered or organized in a segregated manner must be justified in writing as a part of the transition plan as being necessary. In a "segregated manner" means that the people served are all people with disabilities who have not specifically chosen to live or be served together. This justification will be accompanied by objectives to increase social and physical integration which will be included in service planning objectives and program planning.	O, I, R				
5M. The person is engaged in typical activities, with typical people, in typical ways, in typical places, in recognizable roles.	O, I, R				

Based on the evidence gathered in observation, interview and record review of the required and supporting indicators ***Compliance Standard #5 Provision of Adequate Services in Integrated Settings*** is rated as (Circle one):

☐**Compliance** ☐**Non-Compliance**

Please summarize the key aspects regarding *concerns* in this area of compliance and provide documentation (field notes, sections of records, statements from interviews):

Please summarize the key aspects regarding *strengths* in this area of compliance and provide documentation (field notes, sections of records, statements from interviews):

Section B
Domains Which Are Relevant to Compliance and Protection from Harm

B.1. Circumstances Which Require Further Investigation

There are circumstances that should be absent and/or applied only as appropriate, with proper consent and oversight from qualified professional. They may or may not indicate a lack of person-centeredness or sufficient support; however, they are signs that more scrutiny is needed to assure services are robust enough to ensure the person has a good quality of life, and that problems and barriers to inclusion and community success are not ignored. If any of the following are identified, they should be fully explored. Assurances are needed that issues are not related to a lack of effort or person-centeredness on the part of services providers or systems; that the person has sufficient support and services to live well in the community; and that these aspects of the person's life are being attended to properly.

Rating for this section is different than previous sections. Each item should be ranked as yes (Y), no (N), or don't know (DK). For items that are answered "yes," investigation into the adequacy of the support is needed. Reviewers are seeking information that indicates that problems are being attended to by accessing appropriate assessment, treatment, services, and support interventions that provide enough protection now, and are likely to decrease the need for high intensity support in the future when possible.

Rating:

Yes (Y) – There is evidence that these issues or concerns do currently exist for the person.
No (N) – There is no evidence that these issues or concerns currently exist for the person.
Don't Know (DK) – There was not enough evidence to determine whether the condition exists or not.

If one item is rated Yes, this domain will be marked Further Investigation Needed and deferred to the Court Monitor.

For items rated Yes, the Concerns section will note:

Addressed. There is evidence that the assessments, protections, intervention, treatments, services and supports *are likely* to protect the person or others now and/or are likely to support future stability in the community.

Not Addressed. There is evidence that the assessments, protections, intervention, treatments, services and supports are *not* likely to protect the person or others now and/or are unlikely to support future stability in the community.

Circumstances that Require Further Investigation (All items require review.)	Method O, I, R	Y/N/DK	Evidence
6A. The person engages in concerning behaviors related to harm of self or others that is not being adequately addressed?	O, I, R		
6B. The person engages in serious or continuous concerning behaviors sufficient that leading to loss of quality of life such as interference of relationships of importance, loss or destruction of personal property, or financial stability, etc.	O, I, R		
6C. There is ongoing treatment avoidance for any physical or mental health condition of substance (i.e., one that carries serious or likely risks in the near future such as homelessness, incarceration, injury, job loss, or death.)	O, I, R		
6D. The person has experienced frequent or serious interactions with the criminal justice system and courts or community crisis/hospitalization services.	I, R		
6E. Psychotropic medications are used in absence of a diagnosis of a mental illness or for the use of controlling behavior rather than treating symptoms. Psychotropic medications are used without due care for: patient education; prevention or reduction of side effects, monitoring for adverse reactions and signs of over or under-medication or problematic interactions.	I, R		
6F. ECT is used in absence of a diagnosis of a mental illness or for the use of controlling behavior rather than treating symptoms. ECT is used without proper informed consent of the individual and/or the courts (as needed). Note: In MN guardians may have limits on approving the use of ECT (and certain other procedures) without the approval of the courts through a special hearing.	I, R		
6G. Unusual, demeaning, or non-evidenced based treatments are used in response to problematic behavior (such as token programs for adults). Use of unusual or non-evidence based treatment that is culturally based puts the person at risk of harm without evidence that the person understands the risk and is making an informed decision regarding risk. (For example, ingestion of traditional remedies that may interfere with prescribed medications.)	O, I, R		
6H. The person is subjected to environmental restrictions such as, locked areas, buzzers, and alarms; observation areas or slots in doors; uses of straps, lap restraints, seatbelts, helmets, splints, or clothing in ways that are unusual or appear to limit person's freedom or access; a lack of personal possessions or stark rooms.	O, I, R		
6I. There is evidence that the person is restrained or engages in crisis level behaviors that result in police contact or other types of crisis level intervention.	O, I, R		
6J. The person has experienced a recent or impending loss of job, living arrangement or other services or support due to behavior or choices. -	I, R		
6K. There have been recent, serious, or reoccurring maltreatment reports.	I, R		
6L. The person has experienced, harsh, unpleasant, or dangerous treatment with paid supporters.	O, I, R		

6M. The person is significantly disengaged, isolated, or appears unable to concentrate or communicate.	O, I, R		
6N. The person has no relationships outside of paid supporters.	O, I, R		
6O. There is evidence that the person has recently experienced prohibited procedures as described under MN stature 245D including: Chemical restraints; Mechanical restraints; Manual restraints; Time out; Seclusion or any other aversive or deprivation procedures, as a substitute for adequate staffing, for a behavioral or therapeutic program to reduce or eliminate behavior, as punishment or for staff convenience. (MN Stat. 245D.06 Subd.5)	O, I, R		
6P. The person has experienced abuse, neglect, or exploitation. 1) Observed during review – "Major Concerns" form attached 2) Noted in records	O, I, R		
6Q. For individuals experiencing frequent hospitalizations, or out of home placements, there is no plan to avert crisis reactions, prevent recurrence of admissions, or to avoid multiple transfers within the service system.	O, I, R		

Further Investigation Needed? ☐**Yes** ☐**No**

Please summarize the key aspects regarding *concerns* in this area and provide documentation (field notes, sections of records, statements from interviews):

Please summarize the key aspects regarding *strengths* in this area and provide documentation (field notes, sections of records, statements from interviews):

B.2. Autonomy, Rights, and Choices

1. Does the person like where they live? ☐Yes ☐No ☐Don't Know
Comments:

2. Did the individual choose the place where he or she lives? ☐Yes ☐No ☐Don't Know
Comments:

3. Did the person visit other living options before moving here? ☐Yes ☐No ☐Don't Know
Comments:

4. Would the person rather live somewhere else? ☐Yes ☐No ☐Don't Know
Comments:

5. Did the person choose his or her housemate(s)? ☐Yes ☐No ☐Don't Know
Comments:

6. Did the person meet his or her housemate(s) before they began living together? ☐Yes ☐No ☐Don't Know
Comments:

7. If the person shares a bedroom, did the person choose his or her roommate(s)? ☐Yes ☐No ☐Don't Know
Comments:

8. Do staff and visitors let the person know before they come into the person's home? ☐Yes ☐No ☐Don't Know
Comments:

9. Do staff and visitors receive permission before entering the person's private bedroom? ☐Yes ☐No ☐Don't Know
Comments:

10. Does the person exercise his or her right to vote in political elections? ☐Yes ☐No ☐Don't Know
Comments:

11. Does the person have a key or another way to get into his or her house/apartment on his or her own? ☐Yes ☐No ☐Don't Know
Comments:

12. Does the person choose what he or she does during the day, e.g. work, volunteer activity, program, community activity, retirement? ☐Yes ☐No ☐Don't Know
Comments:

13. Does the individual direct his or her daily schedule e.g. when to get up, when to eat, when to sleep? ☐Yes ☐No ☐Don't Know
Comments:

14. Did the individual select the support staff assigned to him or her? ☐Yes ☐No ☐Don't Know
Comments:

15. Does the person have control over his or her spending money? ☐Yes ☐No ☐Don't Know
Comments:

16. Do other people open and/or read the person's mail with receiving permission first? ☐Yes ☐No ☐Don't Know
Comments:

17. Which of the following does the person have and use?

Cell Phone	☐Yes	☐No	☐Don't Know
Email	☐Yes	☐No	☐Don't Know
Internet	☐Yes	☐No	☐Don't Know
Text Messaging	☐Yes	☐No	☐Don't Know
Cable	☐Yes	☐No	☐Don't Know

Note any restrictions on the use of any of the above:

18. Can the person freely visit with and contact friends and family? ☐Yes ☐No ☐Don't Know
Comments:

19. Does the person have freedom of movement in home and where day is spent? ☐Yes ☐No ☐Don't Know
Comments:

20. Does the person have personal possessions and space for those possessions? ☐Yes ☐No ☐Don't Know
Comments:

21. Is the person's room searched? ☐Yes ☐No ☐Don't Know
If so, is permission given to do the search?
Comments:

22. What kind of support is given to the person to understand and exercise rights as a citizen? ☐Yes ☐No ☐Don't Know
Comments:

23. Is the person restricted in any way by a service provider? ☐Yes ☐No ☐Don't Know
If so, what restrictions, why were they instituted, for how long and how are they monitored?
Comments:

Please summarize the key aspects regarding *concerns* in this area of compliance and provide documentation (field notes, sections of records, statements from interviews):

Please summarize the key aspects regarding *strengths* in this area of compliance and provide documentation (field notes, sections of records, statements from interviews):

B.3. Physical Setting

1. Is the home in a safe neighborhood? ☐Yes ☐No
Comments:

2. Is the home in good repair outside? ☐Yes ☐No
Comments:

3. Is the home in good repair inside? ☐Yes ☐No
Comments:

4. Does the home's exterior fit in with the neighborhood in which it is located? ☐Yes ☐No
Comments:

5. Does the home reflect the hobbies, interests and personality of the person? ☐Yes ☐No
Comments:

Please summarize the key aspects regarding *concerns* in this area of compliance and provide documentation (field notes, sections of records, statements from interviews):

Please summarize the key aspects regarding *strengths* in this area of compliance and provide documentation (field notes, sections of records, statements from interviews):

B.4. Family and/or Legal Representative

1. How are you related to this person?

2. Are you satisfied with the place where this person is living?

3. Are you satisfied with what this person is doing during the day?

4. Are you satisfied with the paid staff who support this person where he or she lives?

5. Are you satisfied with the staff who support this person during the day?

6. Do you think this person is satisfied with his or her living situation?

7. Do you think this person is satisfied with the what he or she does during the day?

8. Do you think this person is comfortable with the paid staff who support him or her where he or she lives?

9. Do you think this person is comfortable with the paid staff who support him or her during the day?

10. Do you think this person feels safe at home, in his or her neighborhood, or his or her place of day activity?

11. Does this person have enough opportunity to participate in activities he or she enjoys outside of the home?

12. Is this person learning new things and growing?

13. Are there enough paid staff to support this person in his or her home?

14. Do the paid staff in this person's home treat him or her with dignity and respect?

15. If you have a concern about something happening in this person's life, would you know who to contact?

16. Are you regularly asked for your input regarding services and supports?

17. Are there frequent changes in support staff (at home, work, or day program)?

18. Did you and/or this person choose the agencies that provide services to the person?

19. Can you contact this person when you wish?

20. How often did you visit with this person in the past year?

21. Is there anything this person needs that he or she is not receiving? (Note: Has the parent/legal representative expressed this need to the case manager, provider, or staff and, if so, what was the response?)

B.5. Urgent Concerns

All major concerns should be communicated immediately to the Court Monitor. In the event of imminent danger, ensure that individual(s) are safe and report the incident/issue to the appropriate authority before leaving the home or place of community activity.

Individual: Agency / address:	Monitor notified? ☐Yes ☐No When?

Issue Note	Findings/Comments/Action Taken by Reviewer
Immediate risk of harm	
Evidence of physical, psychological abuse or neglect	
Evidence of human rights violation/exploitation	
Hazards or risk of harm observed in the home or place of community activity (e.g., broken stairs, plaster falling from ceiling)	
Significant sanitation problems (e.g., plumbing problem, filthy environment, visible bug problems, rodent infestation)	
Significant physical or psychological pain which is not being addressed	
Significant medical problem which is not being addressed	
Reviewer:	

Additional Notes, if needed

NOTES