



Minnesota Department of **Human Services**

January 5, 2016

The Honorable Donovan W. Frank
United States District Court
District of Minnesota
724 Federal Building
316 North Robert Street
St. Paul, Minnesota 55101

Re: *Jensen, et al v. Minnesota Department of Human Services, et al.*
Court File No.: 09-CV-01775 DWF/BRT
Olmstead Gap Report

Dear Judge Frank:

On behalf of the Olmstead Subcabinet, I am happy to present the Court with the Olmstead Gap Report. The Olmstead Gap Report was approved by the Executive Committee of the Olmstead Subcabinet on January 4, 2016.

This report covers the period from March, 2015 through September, 2015, which is the period during which reporting was suspended by the Court for the mediation led by Magistrate Judge Becky R. Thorson.

The measurable goals contained in this report are from the March 20, 2015 version of the Olmstead Plan, as those were the goals in existence during the reporting period. Although this report does not include the measurable goals from the August 10, 2015 Olmstead Plan, approved by the Court in September, 2015, it does demonstrate progress related to the goals in the Court-approved Plan.

Sincerely,



Charles E. Johnson
Deputy Commissioner

cc: Shamus O'Meara, Attorney for Plaintiffs
Roberta Ophem, Ombudsman for Mental Health and Developmental Disabilities
Colleen Wieck, Executive Director for the Governor's Council on Developmental Disabilities
Mary Tingerthal, Chair, Olmstead Subcabinet

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

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

Civil No. 09-1775 (DWF/BRT)

Plaintiffs,

v.

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

Defendants.

Minnesota Olmstead Subcabinet Report to the Court

STATUS UPDATE

March 1, 2015 – September 30, 2015

Gap Report

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I. PURPOSE

On June 18, 2015, during mediation between the parties, the Court temporarily stayed reporting obligations arising from previous court orders. This Gap report covers certain goals from the March 20, 2015 Plan and the reporting period during the stay, up to the point when the Court approved the August 10, 2015 Plan. The report covers the time period of March 1, 2015 through September 30, 2015. This report includes: the number of people who have moved from segregated settings into more integrated settings; the number of people who are no longer on the waiting list; and the results of any quality of life measures, as directed in the September 18, 2014 Court order.

Any future reporting will correspond with the reporting requirements of the August 10, 2015 Olmstead Plan, approved by the Court on September 29, 2015.

II. MOVEMENT FROM SEGREGATED TO INTEGRATED SETTINGS

SUMMARY OF MOVEMENT FROM SEGREGATED TO INTEGRATED

This section reports on the progress on three Olmstead Plan goals from the March 20, 2015 Plan that relate to the movement of individuals from segregated to integrated settings. The table below indicates the cumulative number of individuals who moved from various segregated settings to integrated settings.

During the reporting period of March 2015 – September 2015, the number of individuals who moved from a segregated setting to an integrated setting:	
• Intermediate Care Facilities for persons with Developmental Disabilities (ICFs/DD)	45
• Nursing Facilities	470
• Anoka Metro Regional Treatment Center (AMRTC)	107
• Minnesota Security Hospital (MSH)	78
Net number moving from segregated to integrated settings	700

- The goal for ICFs/DD and Nursing facilities was met. A new goal for 2015 was established in the August 10, 2015 Plan and will be reported in subsequent quarterly reports.
- The goal for AMRTC was not met due to a change in Minnesota law in 2014. A new goal for 2015 was established in the August 10, 2015 Plan and will be reported in subsequent reports.
- The goal for MSH was met during the reporting period. A new goal for 2015 was established in the August 10, 2015 Plan and will be reported in subsequent reports.

More information for each specific goal is included below. The information includes the goal and results for the reporting period.

Supports and Services 2C - For individuals in Intermediate Care Facilities for Persons with Developmental Disabilities (ICFs/DD) and people under 65 who have been in nursing facilities longer than 90 days

- By December 31, 2014, 90 people will have transitioned to community services.
-

INTERMEDIATE CARE FACILITIES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES (ICF/DD)

RESULTS: The goal was met. A new goal for 2015 was established in the August 10, 2015 Plan and will be reported in subsequent reports.

During the months of March 2015 through September 2015, for Intermediate Care Facilities for Persons with Developmental Disabilities (ICFs/DD), the net number of individuals who transitioned to community services was 45.

Month	Total number of individuals leaving	(-) Transfers ¹	(-) Deaths	Net moved to integrated settings ²
March	15	2	7	6
April	14	6	1	7
May	19	3	7	9
June	16	4	6	6
July	9	2	2	5
August	17	3	5	9
September	11	1	7	3
Totals	101	21	35	45

¹ Transfers reflect movement to a segregated setting

² Integrated settings include private home/apartment, board/care, group home and adult foster home.

NURSING FACILITIES

RESULTS: The goal was met. A new goal for 2015 was established in the August 10, 2015 Plan and will be reported in subsequent reports.

During the months of March 2015 through September 2015, for people under age 65 (in nursing facilities longer than 90 days), the net number of individuals who transitioned to community services was 470.

Month	Total number of individuals leaving	(-) Transfers ³	(-) Deaths ⁴	Net moved to integrated settings ⁵
March	147	19	63	65
April	130	12	35	83
May	128	11	59	58
June	118	12	39	67
July	153	21	51	81
August	119	8	53	58
September	100	7	35	58
Totals	895	90	335	470

⁴ This includes deaths for individuals with a 90 day cumulative stay in one or more nursing facility.

⁵ Integrated settings include private home/apartment, board/care, group home and adult foster home, and assisted living.

Supports and Services 2D - For individuals in Anoka Metro Regional Treatment Center (AMRTC):

The baseline of persons at AMRTC who do not require hospital level of care and are awaiting discharge to the most integrated setting was 40%.

- By December 31, 2015 the number of individuals who do not require hospital level of care and are awaiting discharge to the most integrated setting will be reduced to 25%.

RESULTS: The goal was not met. In 2014, due to a change in Minnesota law, the percent of individuals at AMRTC under criminal court jurisdiction for competency restoration increased. These individuals' discharges from the program are not governed by medical stability but by the criminal court process. This issue inflates the number and percent of individuals who do not meet hospital level of care and await discharge. A new goal for 2015 was established in the August 10, 2015 Plan and will be reported in subsequent reports.

During the months of March 2015 through September 2015 there were 107 individuals discharged from AMRTC to the most integrated settings. The percentage of individuals awaiting discharge for the time period averaged 39.2%.

Month	Total number of individuals leaving	(-) Transfers	(-) Deaths	Net moved to integrated setting	Percent awaiting discharge
March	23	6	0	17	36.5%
April	16	2	0	14	41.5%
May	18	2	0	16	36.9%
June	20	3	0	17	38.4%
July	13	2	0	11	31.2%
August	26	6	0	20	42.5%
September	15	3	0	12	47.3%
Totals	131	24	0	107	AVG = 39.2%

Supports and Services 2F - Minnesota Security Hospital (MSH) will increase the average monthly discharge rates according to the following timeline:

- By December 31, 2015, increase average monthly discharge rates from 9 individuals per month, to 10 individuals per month.
-

RESULTS: The goal was met. During the months of March 2015 through September 2015 there were 78 discharges, averaging 11.1 per month. A new goal for 2015 was established in the August 10, 2015 Plan and will be reported in subsequent reports.

Month	Total number of individuals leaving	(-) Transfers	(-) Deaths	Net moved to integrated setting
March	17	7	0	10
April	23	6	1	16
May	11	2	0	9
June	18	5	1	12
July	14	3	1	10
August	17	5	0	12
September	16	6	1	9
Totals	116	34	4	78 (AVG = 11.1)

III. MOVEMENT OF INDIVIDUALS FROM WAITING LISTS

SUMMARY OF MOVEMENT FROM WAITING LIST

This section reports progress on the movement of individuals from the home and community based services waiting lists. The table below indicates the cumulative number of individuals who moved from the disability waiver waiting lists⁶.

This data does not include levels of urgency nor does it report the pace at which an individual moves off the wait list. The August 10, 2015 Plan includes goals to eliminate certain waiting lists over specified time periods and goals related to adopting reasonable pace standards. Progress on these goals will be included in subsequent reports.

Table 1: Net number of individuals moving off waiver waiting lists

This table shows the total net movement off the waiver waiting lists during the reporting period of March – September 2015. It includes the number of individuals moving off waiting lists and the number being added to the waiting lists. A month by month breakdown and additional information are available in Tables 3 and 5.

Number of individuals moving off waiver wait lists during reporting period (March – September 2015)	CADI	DD
Total number of individuals moving off waiting list (authorized for waived services ⁷ , accepted other services, or left for other reasons)	1,250	906
Total number of individuals added to the waiting list (screened and eligible for waiver services and placed on waiting list)	838	777
Net movement off waiver waiting list	412	129

Table 2: Summary of size of waiting lists

This table shows an estimate of progress towards the reduction of the size of the waiting lists during the reporting period. The data is pulled once per month and serves as an estimate of wait list size over time and does not indicate the number of individuals moving on or off the waiting lists during that period. A month by month breakdown are available in Tables 4 and 6.

Size of waiting list during reporting period:	Disability waiver	
	CADI	DD
Beginning size of waiting list (February 2015)	1,432	3,504
Ending size of waiting list (September 2015)	1,080	3,480
Net difference	352 decrease	24 decrease

⁶ Disability Waivers = Developmental Disabilities (DD) and Community Access for Disability Inclusion (CADI)

⁷ Authorized for waived services indicates the funding is approved and service planning can begin

Table 3: Monthly CADI Waiting List Movement

This table shows a month by month breakdown of individuals moving off the CADI waiting list because they were authorized for CADI services (row 1) or accepted other services or left for other reasons (row 2). Row 3 shows the total number of individuals moving from the waiting list (Row 1 + Row 2).

Row 4 includes the number of individuals who were added to the waiting list (screened and eligible for waiver services). Row 5 represents the net difference of rows 3 and 4.

Movement of individuals on waiting list during the reporting period	CADI							Total
	Mar 2015	Apr 2015	May 2015	June 2015	July 2015	Aug 2015	Sept 2015	
Number of individuals moving off CADI waiting list, authorized for CADI waiver services	93	63	107	104	97	81	90	635
Number of individuals moving off CADI waiting list, accepted other services, or left for other reasons	63	68	49	91	176	87	81	615
Total number of individuals moving from the waiting list	156	131	156	195	273	168	171	1,250
Total number of individuals added to waiting list	126	148	152	147	119	96	50	838
Net difference	-30	+17	-4	-48	-154	-72	-121	-412

Table 4: Number of Individuals on CADI Waiver Waiting Lists

This table shows an estimate of progress towards the reduction of the size of the waiting lists, month by month during the reporting period. The data is pulled once per month and serves as an estimate of wait list size over time and does not indicate the number of individuals moving on or off the waiting lists during that period. The beginning size comes from data collected at the end of the previous month and the ending size comes from data collected at the end of the month listed.

Size of waiting list during reporting period:	CADI							Total
	Mar 2015	Apr 2015	May 2015	June 2015	July 2015	Aug 2015	Sept 2015	
Beginning size of CADI waiting list	1,432	1,403	1,428	1,435	1,399	1,254	1,195	
Ending size of CADI waiting list	1,403	1,428	1,435	1,399	1,254	1,195	1,080	
Net difference in size of CADI waiting list	-29	+25	+7	-36	-145	-59	-115	-352

Table 5: Monthly DD Waiting List Movement

This table shows a month by month breakdown of individuals moving off the DD waiting list because they were authorized for DD waiver services (row 1) or accepted other services, or left for other reasons (row 2). Row 3 shows the total number of individuals moving from the waiting list.

Row 4 includes the number of individuals who were added to the waiting list (screened and eligible for waiver services). Row 5 represents the net difference of rows 3 and 4.

Movement of individuals on waiting list during the reporting period	Mar 2015	Apr 2015	May 2015	June 2015	July 2015	Aug 2015	Sept 2015	Total Change
Number of individuals moving off DD waiting list, authorized for DD Waiver services	30	66	72	55	78	99	69	469
Number of individuals moving off DD waiting list, accepted other services, or left for other reasons	48	53	57	67	67	70	75	437
Total number of individuals moving from DD waiting list	78	119	129	122	145	169	144	906
Total number of individuals added to DD waiting list	99	157	98	117	111	98	97	777
Net Difference	+21	+38	-31	-5	-34	-71	-47	-129

Table 6: Number of Individuals on DD Waiver Waiting Lists

This table shows an estimate of progress towards the reduction of the size of the waiting lists, month by month during the reporting period. The data is pulled once per month and serves as an estimate of wait list size over time and does not indicate the number of individuals moving on or off the waiting lists during that period. The beginning size comes from data collected at the end of the previous month and the ending size comes from data collected at the end of the month listed.

Size of waiting list during reporting period:	Mar 2015	Apr 2015	May 2015	June 2015	July 2015	Aug 2015	Sept 2015	Total Change
Beginning size of DD waiting list	3,504	3,536	3,586	3,566	3,576	3,557	3,508	
Ending size of DD waiting list	3,536	3,586	3,566	3,576	3,557	3,508	3,480	
Net difference	+32	+50	-20	+10	-19	-49	-28	-24

IV. QUALITY OF LIFE MEASUREMENT RESULTS

The Quality of Life Pilot Study was completed in February 2015. Lessons learned in the study were used in drafting the Request for Proposal (RFP) which was issued in September 2015. Additionally Dr. Jim Conroy, author of the Quality of Life tool was placed under contract as a subject matter expert. He will provide advice on selection of the vendor and throughout implementation on the next phase of the plan to implement the survey.