

Olmstead Subcabinet Meeting

May 23, 2016 – 4:00 p.m. to 5:30 p.m.

Minnesota Housing

400 Sibley Street, State Street Conference Room, Saint Paul, MN 55101

1. Call to Order

Action: N/A

The meeting was called to order at 4:02 p.m. by Commissioner Mary Tingerthal (Minnesota Housing).

2. Roll Call

Action: N/A

Subcabinet members present: Mary Tingerthal, Chair, Olmstead Subcabinet (Minnesota Housing); Shawntera Hardy (Department of Employment and Economic Development); Colleen Wieck (Governor's Council on Developmental Disabilities); Roberta Opheim (Ombudsman for Mental Health and Developmental Disabilities). Ed Ehlinger (Department of Health) arrived at 4:10 p.m. Kevin Lindsey (Department of Human Rights) arrived at 4:22 p.m.

Designees present: Steve Dibb (Department of Education); Deb Kerschner (Department of Corrections); Chuck Johnson (Department of Human Services); Sue Mulvihill (Department of Transportation) via telephone; Gil Acevedo (Department of Health).

Guests present: Kim Anderson, Alex Bartolic, Erin Sullivan Sutton, Alice Nichols, Shelley White, and Adrienne Hannert (Department of Human Services); Mike Tessneer, Rosalie Vollmar, Tristy Auger, and Darlene Zangara (Olmstead Implementation Office); Ann Smetak and Tom O'Hern (Minnesota Housing); Kristie Billiar (Department of Transportation); David Sherwood-Gabrielson (Department of Employment and Economic Development); Commissioner Tom Baden, Ellena Shoop and Mathew Porett (MN.IT); Stephanie Lenartz (Department of Health); Anna McLafferty (Department of Corrections); Joan Willshire (Minnesota State Council on Disabilities); and Kim Moccia (Department of Administration).

Guests present via telephone: Katrina Gregor, Minnesota State University student.

3. Agenda Review

There were no changes to the agenda.

4. Approval of Minutes

a) Subcabinet meeting on April 25, 2016

The April 25, 2016 Subcabinet meeting minutes were approved as written.

Motion: Approve the April 25, 2016 Subcabinet meeting minutes.

Action: Motion – Wieck. Second – Dibb.

In Favor - All

5. Reports

a) Chair

Commissioner Tingerthal reported the following:

- A conference call is scheduled with Magistrate Judge Thorson on Wednesday, May 25 to discuss language in the February 22, 2016 Court Order regarding the reporting schedule for the measurable goals in the Plan.
- A request was submitted to the Court on adopting the goals in the Plan that are prescribed to be set during the course of the year. The Subcabinet would adopt the goals on a provisional basis and incorporate them into the Annual Plan Amendment process. There are four such goals included in the May 2016 Quarterly Report. Two of those goals are up for provisional approval and two crisis services goals have been delayed and are noted as such in the Quarterly Report. OIO staff is talking with DHS about those two items, and there is a possibility that there may need to be a special Subcabinet meeting to discuss the delayed goals.

b) Executive Director

Executive Director Darlene Zangara reported the following:

- The Quality of Life contract, Phase 1, concluded on May 16, 2016. The next step is to meet with OIO staff to review the strategy, survey, administration design plan, and the abuse and neglect protocols and then meet with external stakeholders. The Plan will be presented to the Subcabinet on June 27, 2016.
- The OIO will begin work on the Quality of Life contract amendment for Phase 2.
- The Public Comment process for the Assistive Technology and Prevention of Abuse and Neglect measurable goals was announced via the Olmstead website, social media, and an email blast. In addition to the comments on the two goal areas, several comments were received about the public comment process. That feedback will be incorporated into recommendations to the Subcabinet for future public input opportunities.
- An update will be provided on dispute resolution cases at the June Subcabinet meeting.

c) Legal Office

Anne Smetak reported the following:

- Mediation with Magistrate Judge Thorson took place on May 6, 2016. The mediation included further amendments to the measurable goals for Assistive Technology and Prevention of Abuse and Neglect. The amended Plan is due to the Court on June 1, 2016.
- A status conference is scheduled on June 6, 2016 that will cover the Jensen Settlement Agreement and the Olmstead Plan.

d) Compliance Office

Mike Tessneer reported the following:

- The Compliance office conducted a Verification Review with DHS. Prior to the verification review with DHS, a possible discrepancy in data related to Anoka Metro Regional Treatment Center (AMRTC) and Minnesota Security Hospital (MSH) was revealed. Corrections are reflected in the May 2016 Quarterly Report. New processes have been established regarding database procedures to improve data accuracy.
- The Compliance office conducted a verification review with MDE.
- Findings and Recommendations reports were issued to DHS and MDE.

6. Action Items

a) May 2016 Quarterly Report on Measurable Goals

1. Review and Approve Quarterly Report on Measurable Goals

Mike Tessneer, OIO Compliance, reported on the May 23, 2016 Quarterly Report for data acquired through April 30, 2016. There were 13 goals reviewed. Of the 13 goals:

- 2 goals were met
- 2 goals were not met
- 4 goals were on track
- 5 goals were not on track

Agency sponsors/leads provided a brief summary of each measurable goal and answered questions from the members of the Subcabinet. The complete information on results, analysis of data, timeliness of data and comments on

performance is included in the May Quarterly Report that will be posted on the Olmstead Plan website.

Quarterly Summary of Movement from Segregated to Integrated Settings

In response to a question from Roberta Opheim (OMHDD), Alex Bartolic (DHS) explained there are additional resources available to help track successful movement and placement from segregated to integrated settings, including a federal grant that targets assistance and additional supports, housing access services, and private vendors for relocation services.

In response to a comment from Commissioner Ed Ehlinger (MDH), Deputy Commissioner Chuck Johnson (DHS) explained there are a number of strategies that have been implemented to better track patterns of movement to move the goals forward.

- **Transition Services 1.A.**

Alex Bartolic (DHS) reported on Transition Services 1.A. The 2016 goal is to have 84 people move from ICFs/DD to more integrated settings. Based on this quarter's number of 16, progress is not on track to meet the annual goal of 84.

In response to a question from Roberta Opheim, Alex Bartolic stated that there is targeted assistance to the counties from organizations such as Moving Home Minnesota that works to help people leave ICFs. Housing access services and relocation service coordination are also available to the counties.

In response to a comment from Commissioner Kevin Lindsey (MDHR), Alex Bartolic agreed to provide the Subcabinet with a detailed summary of ICF information broken down by Metro and non-Metro counties at a future meeting.

Deputy Commissioner Johnson added that DHS is concerned about not meeting the first two Transition Services goals. Deputy Commissioner added that work is being done to get different services in place to increase progress on these goals.

- **Transition Services 1.B**

Alex Bartolic (DHS) reported on Transition Services 1.B. The 2016 goal is to have 740 people move from Nursing Facilities (for persons with a disability under 65 in facilities longer than 90 days) to a more integrated setting. Based on this quarter's number of 180, progress is not on track to meet the annual goal of 740.

In response to a comment from Commissioner Kevin Lindsey, Alex Bartolic (DHS) agreed to provide the Subcabinet with a detailed summary of nursing home transitions broken down by Metro and non-Metro counties at a future meeting.

- **Transition Services 2**

Erin Sullivan Sutton (DHS) reported on Transition Services 2. The 2016 goal is to reduce the percent of people awaiting discharge from Anoka Metro Regional Treatment Center to 35% or less. The baseline was 36% or less awaiting discharge. This quarter there were 46.6% awaiting discharge, with an average of 44.0% over the period of three quarters. This progress is not on track to meet the annual goal.

In response to a comment from Colleen Wieck (GCDD), it was agreed that a definition on transfers would be added to the tables or the end notes.

- **Transition Services 3**

Erin Sullivan Sutton (DHS) reported on Transition Services 3. The 2016 goal is to increase the average monthly discharges from the Minnesota Security Hospital to 11 or more people per month. This quarter, the average monthly number of discharges was 5.3. This progress is not on track to meet the annual goal.

In response to questions from Chair Tingerthal (Minnesota Housing), Deputy Commissioner Chuck Johnson explained that current efforts are being made to increase the number of transitions, including working with the counties to increase the number of providers willing to serve individuals transitioning into the community. He agreed to provide the Subcabinet with more information at the June meeting.

- **Waiting List 1**

Alex Bartolic (DHS) reported on Waiting List 1. The 2016 goal is to eliminate the Community Access for Disability Inclusion (CADI) waiting list. The baseline was 1,420 people on the CADI waiting list. At the end of the reporting period there were 193 people on the CADI waiting list. This progress is on track to meet the October 2016 goal.

- **Quality of Life Measurement Results**

Sarah Thorson (DHS) reported on the 2014-2015 National Core Indicator survey results for Minnesota. The report includes an analysis of quality of life concerns

around employment in the community, choice of living arrangements contact with case managers, customer service, feeling safe in their home, and prevention of abuse and neglect.

- **Person Centered Planning 1**

Alex Bartolic (DHS) stated that staffs are implementing protocols for person centered planning. The baseline is not yet established. The Quarterly Report includes details of how many cases were reviewed and the specific counties being reviewed.

- **Positive Supports 1**

Alex Bartolic (DHS) reported on Positive Supports 1. The 2016 goal is to reduce the number of individuals experiencing restrictive procedures by 51. The baseline goal was 1,076 people. This quarter there were 297 individuals who experienced a restrictive procedure. The annual goal will be reported in November 2016. It is too early to determine if the annual goal will be met.

- **Positive Supports 2**

Alex Bartolic (DHS) reported on Positive Supports 2. The 2016 goal is to reduce the number of reports of restrictive procedures by 409 to 7,763 reports. The baseline was 8,602 reports. This quarter there were 1,019 reports. The progress is on track to meet the annual goal.

- **Positive Supports 3**

Alex Bartolic (DHS) reported on Positive Supports 2. There are two parts to the June 30, 2016 goals: to reduce the number of reports of mechanical restraints to 369 and to reduce the number of individuals approved for mechanical restraints to 25 or less. The baselines were 2,038 reports and 85 approved individuals.

This quarter the number of reports was 178. The number of individuals approved for emergency use of mechanical restraint was 16. The progress is not on track for the number of reports, but is on track for the number of individuals.

In response to a question from Roberta Opheim about what impact the changes in Rule 245D had on the use of mechanical restraints during the reporting period, Alex Bartolic (DHS) agreed to add clarifying language in the comments section regarding the impact of this rule on the performance.

In response to a concern from Colleen Wieck, Compliance will add an end note that clarifies MN Rule 9544 applies to 245A licensed services that serve persons with developmental disabilities.

- **Crisis Services 3**

The 2015 goal is to decrease the number of people who discontinue waiver services after a crisis by 45%. The baseline was 62 people. There was a reduction of 54 people. The June 30, 2015 goal was met.

- **Employment 1**

The 2015 goal is to increase the number of new individuals receiving Vocational Rehabilitation Services (VRS) and State Services for the Blind (SSB) who are in competitive, integrated employment to 2,853. The baseline was 2,738 people. In 2015, the number was 3,236 people. The September 30, 2015 goal was met.

- **Positive Supports 4**

The 2015 goal is to decrease the number of students receiving special education services who experience an emergency use of restrictive procedures at school by 110. The 2014 baseline total was 2,740. During the 2014-15 school year, 2,779 students experienced at least one restrictive procedure in a school setting which was an increase of 39 over baseline. The June 30, 2015 goal was not met.

- **Positive Supports 5**

The 2015 goal is to decrease the number of incidents of emergency use of restrictive procedures occurring in schools by 781. The 2014 baseline total was 19,537 incidents. During the 2014-15 school year, 22,119 incidents were filed, which was an increase of 2,582 over baseline. The June 30, 2015 goal was not met.

In response to questions from Chair Tingerthal, Marikay Litzau (MDE) explained that, through training and changing the way districts report data, it is believed that the 2014-15 school year number is a more accurate baseline and the numbers will start to decrease from that higher baseline.

Motion: Approve the Quarterly Report with changes as discussed.

Action: Motion – Wieck. Second – Ehlinger.
In Favor – All

2. Review and Approve Baselines and Annual Goals:

a. Transportation 1.C

Kristie Billiar (DOT) reported on Transportation 1.C. The January 31, 2016 goal was to establish a target for sidewalk improvements. The 2012 baseline includes 620 miles of sidewalks maintained by MnDOT. Of those 620 miles, 285.2 miles (46%) meet the 2010 ADA standard. The proposed goal will build 6 additional miles of sidewalk per year from 2017-2021. The goal will be revisited in 2018.

In response to several questions from Subcabinet members, Deputy Commissioner Chuck Johnson clarified that cities and counties are required to address accessibility issues and do not report to the Department of Transportation. Deputy Commissioner Sue Mulvihill (DOT) explained that the Department of Transportation works with state aid offices, local counties, cities, and Commissioners to discuss transition plans and assure they are aware of accessibility responsibilities. Chair Tingerthal encouraged Subcabinet members to continue to think about this concern for further discussion when the plan is amended.

Motion: Approve the Transportation goal as discussed.

Action: Motion – Mulvihill. Second – Johnson.
In Favor – 9. Opposed – Opheim.
Roberta Opheim opposed, stating the goal was too low.

a. Community Engagement 1.C

Alice Nichols (DHS) and Shelly White (DHS) reported on Community Engagement 1.C. The January 4, 2016 goal was to establish a baseline and set measurable goals for the number of employed Certified Peer Support Specialists.

The baseline as of April 30, 2016, is that there are 16 individuals employed by Assertive Community Treatment (ACT) teams or Intensive Residential Services (IRTS) throughout Minnesota. The proposed goal is to increase the number of peer specialist employed by ACT and IRTS teams by 82.

In response to a comment from Colleen Wieck, Compliance will add the word “additional” in the goal.

Motion: Approve the Community Engagement Report as discussed.

Action: Motion – Wieck. Second – Johnson.
In Favor – All

b. Workplan Compliance Report

Mike Tessneer, OIO Compliance, reported on the Workplan Compliance Report. There were 28 items reviewed in May. None of those items were found to be exceptions. Of the 28 total items:

- 15 items (54%) were completed
- 13 items (46%) were on track
- 0 items (0%) were reported as exceptions

c. Proposed Adjustments to Workplan Activities

• Community Engagement 1.A

Darlene Zangara (OIO) reported on Community Engagement 1.A. The goal is to coordinate with the Governor appointed councils, groups, etc. on the alignment of Olmstead goals with goals of those organizations. At this time 19 of the 22 Councils have received Olmstead training. The proposed new activities would move the deadline as follows:

- Report to the Subcabinet on the number of Councils receiving initial overview of the Olmstead Plan by June 30, 2016.
- By October 30, 2016, provide a summary to the Subcabinet of eight Councils that have adopted Olmstead aligned goals including: the type of goal, the type of workplan activities, and the timing of the workplans.
- Meet with remaining Councils to align Olmstead goals with Council goals by June 30, 2017.

• Community Engagement 4.A.2

Darlene Zangara (OIO) reported on Community Engagement 4.A.2. The goal is to implement pilot quarterly trainings with OIO advisory group. This activity will not be accomplished by the June 30, 2016 deadline. It was determined the advisory group needs to be restructured and reestablished. A proposal will be submitted to the Subcabinet on August 22, 2016 with recommendations to proceed.

Motion: **Approve the Proposed adjustments to Workplan activities as discussed.**

Action: **Motion – Hardy. Second – Dibb.**
 In Favor – All

d. Proposed New Measurable Goals

- **Assistive Technology**

Chair Tingerthal reported on Assistive Technology. The goal is to improve technology access and availability for people with disabilities. Because assistive technology is a part of several topics in the overall Olmstead Plan, the goals and strategies related to it are embedded in other topic areas throughout the Plan.

A goal is being added in the Lifelong Learning and Education topic area that works with a set of targeted school districts. The goal is to increase the number of Individualized Education Plans (IEPs) that meet the required protocols for effective consideration of assistive technology.

In response to comments from Colleen Wieck, Chair Tingerthal agreed the definitions for assistive technology would be moved into the body of the topic area and that the STAR group would be added to the last bullet on page 26.

- **Prevention of Abuse and Neglect**

Deputy Commissioner Chuck Johnson reported on Prevention of Abuse and Neglect. There are four goals:

1. By September 30, 2016, the Olmstead Subcabinet will approve a comprehensive abuse and neglect prevention plan, designed to educate people with disabilities and their families and guardians, all mandated reporters, and the general public on how to identify, report and prevent abuse of people with disabilities.
2. By January 31, 2020, the number of emergency room (ER) visits and hospitalizations of vulnerable individuals due to abuse and neglect will decrease by 50% compared to baseline.
3. By December 31, 2021, the number of vulnerable adults who experience more than one episode of the same type of abuse or neglect within six months will be reduced by 20% compared to the baseline.
4. By July 31, 2020, the number of identified schools that have had three or more investigations of alleged maltreatment of a student with a disability within the three preceding years will decrease by 50% compared to baseline. The number of students with a disability who are identified as alleged victims of maltreatment within those schools will also decrease by 50% by July 31, 2020.

Chair Tingerthal applauded the State for taking steps to institute the Minnesota Adult Abuse Reporting Center (MAARC) system to help track incidents of abuse and neglect for people with disabilities. Roberta Opheim (OMHDD) commented that the system should be expanded to include children with disabilities.

In response to questions from Commissioner Ehlinger on why Goal Three called for a 20% reduction while Goal Two called for a more aggressive 50% reduction, Deputy Commissioner Chuck Johnson explained that one of the reasons is the baseline number for Goal Three is very small. Another reason is because, with the new MAARC system, there are an increasing number of reports being filed. Because there is uncertainty as to what the actual data is going to be, there is concern to set the goal too high at the onset.

Commissioner Ehlinger stated that he had the same concerns of setting aggressive goals in Goal Two without knowing what the data would actually be. Chair Tingerthal added that this was an area of much discussion at mediation and that is why those two goals clearly state that the goals will be reviewed and revised as needed based on the most current data.

In response to a comment by Roberta Opheim, Deputy Commissioner Johnson explained the reason Goal Three is limited to the same type of abuse is because that is the information that is currently being tracked. In the future, DHS can look at the data to determine what other measures may be useful in getting to a reduction.

In response to comments from Colleen Wieck, Chair Tingerthal agreed a footnote should be included that provides the definition of abuse and neglect according to the statutes.

Motion: Approve the proposed amendments to Plan as discussed.

Action: Motion – Lindsey. Second – Dibb.

In Favor – All

7. Discussion Items

a) Preparation for June 6, 2016 Status Conference

There was no time for this agenda item to be discussed.

8. Informational Items

a) Workplan Items requiring report to Subcabinet:

There was no time for this agenda item to be discussed.

9. Public Comments

There were no public comments.

10. Adjournment

The meeting was adjourned at 6:06 p.m.

Motion: Adjournment.

**Action: Motion – Lindsey.
In Favor - All**

Second: Dibb.