

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

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

Civil No. 09-1775 (DWF/FLN)

Plaintiffs,

v.

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

Defendants.

REPORT TO THE COURT:

ADOPTION OF FORMAT FOR DEFENDANTS' COMPLIANCE REPORTS

April 3, 2014

David Ferleger
Court Monitor
Archways Professional Building
413 Johnson Street
Jenkintown, PA 19046
Phone: (215) 887-0123
Fax: (215) 887-0133
david@ferleger.com

REPORT TO THE COURT:

ADOPTION OF FORMAT FOR DEFENDANTS' COMPLIANCE REPORTS

Pursuant to the Court's Order of March 12, 2014 (Dkt. 284), requiring the Court Monitor to establish Defendants' report format for the Comprehensive Plan of Action, the Court Monitor adopts the attached report format.

The format is intended to fully inform the Court through regular reporting, assist the parties in tracking compliance, and to facilitate compliance reviews and verification.

Each report will include the cover, important instructions defining the elements of the report and Defendants' reporting obligations, a table of contents, a grid keyed to the Evaluation Criteria, and a submission signature page.

In addition to the grid, Defendants will also update their first report's narrative description on the Cambridge closure; the elements of that report are set forth in the Order of August 28, 2014 (Dkt. 224). The Court Monitor anticipates that this element of reports will no longer be necessary soon after the successor treatment homes are fully established.¹

/s David Ferleger
Court Monitor

April 3, 2014

¹ The Order of March 12, 2014 at 3 provides that the Court Monitor may modify the report formats.

Jensen v. Department of Human Services, No. 09-cv-1775 (D. Minn.)

Comprehensive Plan of Action¹

**DEFENDANTS' SECOND
COMPLIANCE UPDATE REPORT**

Bi-monthly Data Covering [Month Day] through [Month Day, 20__]

Filing Date: _____

Filed with the Court
and submitted to David Ferleger, Court Monitor

¹ See Order of March 12, 2014 (Dkt. 284); Order of August 28, 2014 (Dkt. 224).

INSTRUCTIONS

1. Defendants' Compliance Update Reports will be submitted every two months. Each report will include two months of data.
2. The information in the Reports shall be accurate, complete, timely and verifiable.
3. Each report shall include the following elements:
 - **Evaluation Criteria and Actions.** Verbatim from the CPA.
 - **Deadline.** The deadline for compliance with each Evaluation Criterion, and for achievement of each Action.
 - **Person Responsible.** The state official/staff who is specifically responsible for implementation of the listed item. The individual is also responsible for the accuracy and completeness of the associated information in the report, and of the submitted documentation for verification. The Jensen Implementation Team is additionally accountable for the accuracy and completeness of the associated information in the report, and of the submitted documentation for verification.
 - **State of Compliance; Verification Documentation.**

"State of Compliance" describes the progress achieved during the report period, and the current situation regarding compliance. Information on requested and/or approved deadline revisions will appear here.

"Verification Documentation" designates the documentation material (and copies where possible) which supports and demonstrates the status of compliance. The documentation shall be filed in a separate volume of "exhibits" with each status report. Where an exhibit includes client names, the exhibit may be filed under seal.
 - **Obstacles and Next Steps.** A description of any obstacles encountered which may impede or delay timely compliance, followed by summary of the next steps to be taken to advance timely compliance. Any grounds for any requested modification of deadlines or actions will appear here.²

² The report may not be utilized to request modifications of the CPA.

- **Status.** A statement of Defendants assertion of the status of the item as “completed,” or “incomplete.” In the report subsequent to Defendants reporting a “completed” status, the Status column will be marked “Maintaining completion achieved [date].”
4. The Second Compliance Update Report shall be filed on or before May 11, 2014 and shall address the substantive requirements of the Comprehensive Plan of Action.³ The Second Compliance Update Report shall include data covering March 1 to April 30, 2014.⁴ Thereafter, each bi-monthly report shall be filed on or before the 15th of the month the report is due, and shall include the data for the preceding two calendar months.
 5. “The CPA includes Evaluation Criteria (EC) and accompanying Actions. The ECs set forth the outcomes to be achieved and are enforceable. The Actions under the ECs are not enforceable requirements. Compliance with an EC will be deemed to have been achieved if the EC's Actions are taken. However, the Department of Human Services may undertake alternate actions to achieve satisfaction of the EC. The Actions may be modified pursuant to the modification process set forth in the Order of August 28, 2013. ECs are indicated by whole Arabic numbers (e.g., 1, 2) and, in the original, by blue shading. Actions are indicated by Arabic numbers with consecutive decimals (e.g., 1.1, 1.2, 1.3, 2.1, 2.2, 2.3).” CPA.
 6. To permit the reader of any report to determine the history of compliance reporting for each item, each report shall be a rolling report. The prior entries for Status of Compliance, Verification Documentation, and Obstacles and Next Steps shall be repeated (with a bold heading showing the report date).⁵
 7. The report may not be utilized to request modifications to the CPA. The separate modification request procedure shall be used for that purpose.

³ The 1st Update will already have been filed pursuant to the Order of March 12, 2014.

⁴ To the extent that March 1 through 12 data does not exist, Defendants shall so note.

⁵ This method mirrors the DHS reporting approach in the four bi-monthly reports filed during 2012-2013.

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Evaluation Criteria and Actions	Person Responsible	Deadline	Documentation for Verification	Obstacles and Next Steps	Status
1. The Facilities will comply with Olmstead v. L.C. The Facilities are and will remain licensed to serve people with developmental disabilities. The Facility will eliminate unnecessary segregation of individuals with developmental disabilities. People will be served in the most integrated setting to which they do not object. Each individual's program will include multiple opportunities on an ongoing basis to engage with: (1) citizens in the community, (2) regular community settings, (3) participating in valued activities (4) as members of the community. These community activities will be highly individualized, drawn from the person-centered planning processes, and developed alongside the individual.					
1.1 Each individual's planning processes will specifically address integration within the following life areas: (1) home; (2) work; (3) transportation; (4) lifelong learning and education; (5) healthcare and healthy living; and (6) community and civic engagement.					

1.2 Cambridge and successor facilities apply strong efforts to individualize and personalize the interior setting of the home. This includes exerting maximal feasible efforts to assist individuals to personalize and individualize their bedrooms and common areas, to make each common area aesthetically pleasing, and to actively support individuals to bring, care for, acquire, and display personal possessions, photographs and important personal items. Consistent with person-centered plans, this may include the program purchasing such items which will build towards transition to a new place to live.					
2. Facilities utilize person-centered planning principles and positive behavioral supports consistent with applicable best practices including, but not limited to the Association of Positive Behavior Supports, Standards of Practice for Positive Behavior Supports .					

<p>2.1 Each individual will be involved to the greatest extent possible in the development of a person-centered profile centering on learning from the person and those who know the person best about their history, preferences, life experiences, interests, talents, and capacities among other areas within 30 days of admission. This profile will be updated and revised as more is learned over time on at least a monthly basis.</p> <p>A revised person-centered profile format will be developed from the current person-centered description to include the above areas and to include a method to note when revisions and additions are made, by whom, and in what venue (e.g., a person-centered meeting of the support team, interview, an individual update by a staff member, a phone call).</p>					
<p>2.2 From the understanding in the person-centered profile, a person-centered plan will be completed which includes the development of a shared vision of the future to work towards within 30 days of admission, as well as agreements and shared objectives and commitments to work towards.</p>					

SUBMISSION OF REPORT AND DOCUMENTS FOR VERIFICATION

The information in this Compliance Update Report is accurate and complete to the best of my knowledge and belief.

Affirmed and submitted to the Court and to its Court Monitor.

By:

Signature

Printed Name

Title

For the Defendants and the Department of Human Services

Date _____