Jensen Settlement Agreement (METO case)
A Brief Summary of Key Points

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Minnesota Governor's Council on Developmental Disabilities
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Disclaimer: Please refer to the Settlement Agreement for exact wording. This document only highlights what is in the Settlement Agreement with page number references to the Agreement.

1. Who are the plaintiffs?

   James and Lorie Jensen on behalf of Bradley Jensen
   James Brinker and Darren Allen on behalf of Thomas Allbrink
   Elizabeth Jacobs on behalf of Jason Jacobs (Pages 1 and 2).

2. Who are the defendants?

   The Minnesota Department of Human Services, Doug Bratvold, former director of METO, and Scott TenNapel, former clinical director of METO (Pages 1 and 2).

3. What is METO?

   The Minnesota Extended Treatment Options (METO) program is located in Cambridge, Minnesota. This program was intended to serve individuals with developmental disabilities who posed a risk to public safety. The program was created in 1995 (Page 2).

4. When was the complaint filed?

   The original complaint was filed in Federal Court in July 2009.

5. Why was a complaint filed?

   It was alleged that METO residents were unlawfully and unconstitutionally secluded and restrained. The lawsuit was based in part on a report by the Ombudsman's Office for Mental Health and Developmental Disabilities (Page 2).

6. What is a Settlement Agreement?

Rather than a trial, the parties negotiated a Settlement Agreement. The Agreement is 53 pages long. The Case Number is 0:09-cv-01775-DWF-FLN.

To decipher the code:
09 means the year it was filed
Cv means it was a civil suit
01775 is the number assigned to this case
DWF-is the Judge's initials: Judge Donovan W. Frank
FLN- is the Magistrate Judge's initials: Magistrate Judge Franklin L. Noel

7. What is the top concern as stated on page 3 of the Settlement Agreement?

The State of Minnesota declares, as a top concern, the safety and quality of life of the Residents of the facility (METO, now called the Minnesota Specialty Health System - Cambridge). The State agrees that its goal is to provide these residents with a safe and humane living environment free from abuse and neglect. The State also agrees to use a Rule 40 Committee and an Olmstead Committee as the means to extend policies to all people with developmental disabilities, not just those individuals who were involved in the lawsuit (Page 3).

8. Are there definitions?

Yes, the Settlement Agreement contains definitions, including definitions for agreement, facility, resident, best practices, scope, and others (Pages 5 and 6).

9. What happens to METO?

METO closed on June 30, 2011 but has been replaced by the Specialty Health System - Cambridge (Page 6).

10. How is the Minnesota Specialty Health System - Cambridge licensed?

The Minnesota Specialty Health System – Cambridge will be licensed for people with developmental disabilities.

The Settlement Agreement also spells out specific principles to be followed: Olmstead ("most integrated setting"), person centered planning, positive behavioral supports, legislative intent, and the opportunity for families to provide input and feedback about the facility (Page 6).

11. What techniques are prohibited?

Mechanical restraints such as metal handcuffs, leg hobbles, cable tie cuffs, plasticuffs, flexicuffs, soft cuffs, posey cuffs; manual restraint, prone restraint, chemical restraint, seclusion, and the use of painful techniques to change behavior through punishment of residents with developmental disabilities. Medical/chemical restraints and psychotropic/neuroleptic medications shall not be used for punishment (Pages 6-8 for exact wording).

The METO facility policies were updated and are attached to the Settlement Agreement (see attachment A).

12. What is a third party expert?

The Settlement Agreement provides for DHS to consult with third party experts in the event of an emergency. These third party experts should be (or must be) available to consult with staff on a 24 hour basis. If a third party expert cannot be reached, then facility staff can consult with a DHS medical officer (Pages 8 and 9).

13. What is zero tolerance for abuse and neglect?

DHS is committed to complying with reporting requirements of vulnerable persons, and working toward the goal of zero tolerance for all forms of abuse and neglect (by staff or other residents). Staff shall be disciplined and, if appropriate, referred for criminal prosecution (Page 9).

14. What are the reporting requirements for any use of restraints?

DHS is required to provide copies of all reports about the use of restraints within 24 hours to individuals outside of the DHS, including families of METO residents, state agencies that review and investigate complaints about abuse, and an External Reviewer (employed by the Department of Health). (Pages 9 and 10).

15. What other review procedures are in place?

DHS will use an internal review process led by Rick Amado, and DHS will fund a new position at the Minnesota Department of Health, Office of Health Facilities Complaints. The new person will have expertise in positive behavioral supports and called the External Reviewer (Pages 10-13).

16. What will the External Reviewer do?

The External Reviewer will review practices, will review compliance with the terms of the Settlement Agreement, and will issue quarterly reports to the Court. The External Reviewer is not a special master and is not a court monitor (Pages 10-12).

17. Are there others who will review practices?

Yes, the Ombudsman's office, the Minnesota Disability Law Center, and the plaintiffs' counsel also will have access to information about compliance with the Settlement Agreement (Pages 12-13).

18. What is transition planning?

DHS has committed itself to ensuring each resident is served in the most integrated setting appropriate to individual needs. This section also discusses person centered planning, self determination, and best practices in accordance with the Olmstead decision (Pages 13 and 14).

19. Will there be training for DHS staff?

Yes, a training plan is outlined on pages 14 and 15 and provides for training in therapeutic interventions, personal safety techniques, medically monitoring restraint (total of 17 hours of training); person centered planning, positive behavioral supports, and post crisis evaluation and assessment (total of 44 hours of training) (Pages 14 and 15).

20. What are some other changes?

The visitor policy will permit visits at reasonable hours unless there is a good reason not to allow visits. The DHS will discontinue marketing and will continue to post the Health Care Bill of Rights (Page 15).

21. What are some system wide improvements?

DHS will expand the Community Support Services program to deliver the right care at the right time in the most integrated setting.

Approximately 75 individuals will be selected for long term monitoring to avert crises, and wrap around response teams will provide services within three hours to assist with crisis intervention. The Community Support Services program will also offer training and consultation to community services (Pages 16-17).

22. What does behavior analyst mean?

A behavior analyst is an individual with specific educational background, experience, and credentials that are recognized by national associations (Page 18).

23. What is the Olmstead plan?

DHS has agreed to establish an Olmstead planning committee and, within 18 months, to have a comprehensive Olmstead plan in place that uses measurable goals to increase the number of people in the most integrated setting.

Some of the planning committee members are named in the Settlement Agreement (Page 18).

24. What is Rule 40?

Rule 40 is the current rule that governs the use of aversive and deprivation procedures. DHS has agreed to establish a committee to modernize Rule 40 to reflect best practices, positive behavioral supports, and Olmstead principles. The Administrative Procedures Act will be followed in developing Rule 40, meaning that the new proposed rule will be available for public review and comment (Page 19).

25. What happens to individuals who were transferred from METO to the St. Peter Security Hospital?

DHS has agreed to undertake their best efforts to ensure that, except under some limited circumstances, people committed only as individuals with developmental disabilities will not be transferred to the St Peter Security Hospital and individuals with developmental disabilities only who are currently at St. Peter Security Hospital will be moved out by December 1, 2011 (Page 20).

26. What happens at the Anoka Metro Regional Treatment Center?

Individuals with developmental disabilities who have an acute psychiatric condition can be admitted to Anoka, but those who have been committed solely with a developmental disability will be transferred to a most integrated setting (Page 21).

27. What about out-of-date terminology?

DHS will update the language to conform to the 2005 legislation replacing the term mental retardation with developmental disability.

Out of date language such as insane, mentally incompetent and mental deficiency will be updated (Page 21).

28. How long does the Settlement Agreement last?

The Settlement Agreement will be effective for two years; however, DHS has committed to funding certain provisions until 2015 (Page 39).

29. The remainder of the Settlement Agreement deals with the class members, compensation, etc (Pages 22-53).