

Jensen Settlement Agreement Comprehensive Plan of Action (CPA)

Ninth Compliance Update Report
Reporting Period: May 1 – September 30, 2015



Minnesota Department of **Human Services**

Jensen Settlement Agreement Comprehensive Plan of Action Ninth Compliance Update Report
Reporting Period: May 1 to September 30, 2015

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Executive Summary

This is the Ninth Compliance Update Report in response to the March 12, 2014 Comprehensive Plan of Action (CPA) (Doc. 284) and is based on data, documentation and information from May 1 through September 30, 2015. The *Jensen* Implementation Office developed this report from information submitted and verified by persons identified as being responsible for each evaluation criteria. The *Jensen* Implementation Office completed further verification and analysis of information submitted.

Court-ordered mediation began in June and involved Magistrate Judge Thorson, the Department of Human Services (Department), the defendant's counsel, the consultants and the plaintiffs' counsel. The court stayed reporting on the CPA during the mediation (Doc 462).

The Department filed the eighth *Jensen* Settlement Agreement CPA Update Report with the court on May 15, 2015.

Background

The *Jensen* Settlement Agreement is the result of a lawsuit filed against the Department in 2009 alleging that residents of the former Minnesota Extended Treatment Options (METO) program were unlawfully and unconstitutionally secluded and restrained. The *Jensen* Settlement Agreement allowed the department and the plaintiffs to resolve the claims in a mutually agreeable manner. The Comprehensive Plan of Action outlines the path that the department will take to come into compliance with the terms of the Agreement.

As part of the Comprehensive Plan of Action, the Department of Human Services established the *Jensen* Implementation Office (JIO). The JIO manages and coordinates this plan. During this reporting period, the JIO was staffed with four full time professionals and one support staff. This consisted of a director, manager, analyst, and data analyst and a support staff.

***Jensen* Implementation Office**

The Department created the *Jensen* Implementation Office to improve compliance and quality oversight of the *Jensen* Settlement Agreement. There has been a *Department* internal workgroup providing technical expertise and updates on compliance with the *Jensen* Settlement Agreement and the Comprehensive Plan of Action (CPA). There have been *Jensen* "parties meetings" including the Plaintiffs' Counsel Shamus O'Meara, the State Ombudsman for Mental Health and Developmental Disabilities, Roberta Opheim, Executive Director of the Minnesota Governor's Council on Developmental Disabilities, Dr. Colleen Wieck, as well as various Department staff, and the *Jensen* Implementation Office.

In October 2015, the focus of the *Jensen* Implementation Office changed to compliance monitoring and measurement. This change included a focus on developing a Department Wide Quality Assurance

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Plan, a *Jensen* Implementation Office specific Quality Assurance Plan, expanded *Jensen* Internal Reviewer responsibilities, and starting the process for contracting with Independent Subject Matter Experts. In January 2016, the *Jensen* Implementation Office will initiate regular meetings with the Department staff and consultants to the *Jensen* Settlement Agreement, Roberta Opheim and Colleen Wieck. The purpose of the meetings is to review and discuss quality improvement activities and verification of the *Jensen* Settlement Agreement Comprehensive Plan of Action Evaluation Criteria.

***Jensen* Internal Reviewer**

The *Jensen* Internal Reviewer will conduct internal investigations and reviews to ensure compliance with the *Jensen* Settlement Agreement, positive supports rule, Olmstead Plan (specific to the Department), person-centered planning, the CPA and other triggered/reported concerns.

Independent Subjects Matter Experts

The Department, through its Community Supports Administration, is developing a Request for Proposals to create a "pool" of experts, in a variety of areas, to provide independent and objective assurance, advisory, and investigative services to the Department in relation to the *Jensen* Settlement Agreement. The highly qualified and experienced subject matter experts, with specialized skills, will assist the Department in bringing significant improvements to the care and treatment of individuals with developmental disabilities outlined in the *Jensen* Settlement Agreement. The *Jensen* Implementation Office will be responsible for managing the contracts for the subject matter expert contracts.

Department Quality Assurance Committee

A Performance Management and Quality Improvement Framework for People with Disabilities was drafted in 2015 to provide an agency-wide structure to monitor the quality of programs and services provided to people with disabilities. This framework will connect quality improvement efforts to services supported throughout the department. The Department Quality Improvement Framework also aims to support the agency's goal to have all programs carry out the vision of Olmstead, to ensure that all people have choices and opportunities to live, learn and work and enjoy life in integrated settings.

The committee will utilize continuous improvement resources to identify opportunities for improvement, and facilitate development of work plans, and tracking of progress. A steering committee lead by Deputy Commissioner Charles E. Johnson will oversee the work of the committee. The first meeting of the committee is scheduled for January 27, 2016. The steering committee will be comprised of the following persons or their designees:

- Assistant Commissioner for Community Supports
- Assistant Commissioner for Health Care Administration
- Assistant Commissioner for Children and Family Services
- Assistant Commissioner for Community and Partner Relations
- Assistant Commissioner for Continuing Care for Older Adults

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- Chief Compliance Officer
- Human Resources Director
- Direct Care & Treatment Director
- *Jensen*/Olmstead Director
- Senior Legal Counsel
- *Jensen* Internal Reviewer

Single Point of Entry

Launched February 19, 2015, the Single Point of Entry is a Department-piloted process, to improve the Department's ability to respond to requests for assistance in supporting people with disabilities in crisis. The Single Point of Entry is part of a larger Disability Services Division /Direct Care and Treatment Process Improvement Project that the Department initiated in January 2015. The Single Point of Entry Pilot coordinates Department efforts for persons with developmental or intellectual disabilities in crisis and at risk of losing their current placement. Additional information concerning the Single Point of Entry is provided on page 71 of this report.

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Evaluation Criteria State of Compliance

Settlement Agreement Section IV. METO Closure (EC 1 – 4)

Evaluation Criteria 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 [sic] 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.

State of Compliance

The Department has met criteria for Evaluation Criteria 1. Minnesota Life Bridge's mission is consistent with the *Jensen Settlement Agreement* and functions as a transitional adult foster care home as required by the *Jensen Settlement Agreement*. "Successful Transition to a Successful Life" appropriately describes the intent and purpose of Minnesota Life Bridge. While providing services to persons with complex needs is a multi-faceted undertaking and subject to continuous improvement, Minnesota Life Bridge's mission is clear and consistent with the *Jensen Settlement Agreement* and the CPA. Minnesota Life Bridge's mission is also consistent with *Olmstead's* requirement to provide people with the most integrated or best alternative setting for residents while they plan for further transition to a more integrated setting in the community. Individualized treatment continues to be a main function of Minnesota Life Bridge homes; staff use person-centered planning approaches with all Minnesota Life Bridge residents.

During this reporting period, Minnesota Life Bridge served four people at Stratton Lake, including three people who were discharged and one person who was admitted, three people at Brobergs Lake, including one person who was discharged and one person who was admitted, and four people at East Central. All 11 people served had individualized person-centered plans that addressed integration within the six life areas listed in Evaluation Criteria 1, and opportunities to personalize the interior setting of the home.

Person-centered planning is an ongoing process, based on the person's preferences, talents, dreams, and goals. Once a person achieves a goal, there are other goals to work on. Person-centered plans are developed over time, and are frequently reviewed for continued applicability and progress on meeting goals. Minnesota Life Bridge staff review person-centered plans with each person at least once a month. Staff assist people receiving services in creating, enriching and refining their plans, including addressing community integration in the six life areas listed in Evaluation Criteria 1.

Minnesota Life Bridge staff also support individuals to make choices on the interior setting of the homes. Some examples of choices made are painting their bedroom, selecting new linens, and

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reorganizing furniture. People using Minnesota Life Bridge services do not have the choice of housemate, given the intent of Minnesota Life Bridge's short-term services. Roommates are a necessity given the limited amount of space available. However, with input and approval between the person and their team, Minnesota Life Bridge have moved people to another home to allow them to be in a location without a roommate.

Minnesota Life Bridge will continue to maintain appropriate licensure for all community settings. The *Jensen* Implementation Office will verify licenses are timely and appropriate by reviewing the DHS Licensing Lookup web page and storing a copy of the licenses in the *Jensen* SharePoint site.

Evaluation Criteria 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.

The Department has met criteria for EC 2. During this reporting period, plans for all 11 people served at Stratton Lake, Brobergs Lake, and East Central were reviewed by Dr. Tim Moore, the Senior Behavior Medical Practitioner for Minnesota Life Bridge and the Successful Life Project. Dr. Moore determined that the plans demonstrated application of person-centered planning principles and included positive behavioral supports. The plans were consistent with applicable best practices including, but not limited to the Association of Positive Behavior Supports, Standards of Practice for Positive Behavior Supports. Each person worked with Minnesota Life Bridge staff and others (such as family, friends, and providers) they chose to participate in the development of a personal profile that informed the development of the person-centered plan within the timeline and with the content and scope described in EC 2.2, 2.3 and 2.4.

Amber Maki, Minnesota Life Bridge Clinical Coordinator / Behavior Analyst 3 Supervisor, reviewed positive support transition plans for people served at Stratton Lake and Brobergs Lake and found that three of six positive support transition plans included token economies. Todd Buckingham, Minnesota Life Bridge Crisis Residential Program Manager, reviewed positive support transition plans for East Central residents and found two of four included token economies. All positive support transition plans required that token economies be used sparingly, not for punishment, and only when weighed against the potential risks to the person's image and competencies in terms of exercising personal autonomy.

To ensure continued compliance with EC 2, the *Jensen* Implementation Office, the *Jensen* Internal Reviewer and Minnesota Life Bridge Clinical Director will provide oversight and verify through documentation review or direct observation that Minnesota Life Bridge provides a person-centered planning process and environment, positive behavior supports and transition planning, and conducts a functional behavioral analysis for all new admissions.

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Evaluation Criteria 3:

Facilities serve only "Minnesotans who have developmental disabilities and exhibit severe behaviors which present a risk to public safety."

State of Compliance

The Department has met criteria for Evaluation Criteria 3. The admission criteria to serve only *"Minnesotans who have developmental disabilities and exhibit severe behaviors which present a risk to public safety,"* became the policy and practice in late 2013.

During this reporting period, there were 11 referrals to Minnesota Life Bridge. Minnesota Life Bridge determined seven of the 11 people to be eligible for Minnesota Life Bridge services. Four people were determined to be not eligible because they were not a Minnesotan with a developmental disability who exhibited severe behaviors that presented a risk to public safety. Minnesota Life Bridge communicates with the case manager and provides suggestions for diversion or other services for people who are ineligible.

In accordance with Evaluation Criteria 3.1, Minnesota Life Bridge also admits those persons with a developmental disability committed by a state court for competency restoration under Rule 20 of the Minnesota Rules of Criminal Procedure.¹ This mission has not and will not undermine Minnesota Life Bridge's primary goal of using best efforts to transition all persons residing at Minnesota Life Bridge into the most integrated setting, in accordance with *Olmstead* principles.

To ensure that the Department continues to meet criteria for EC 3, the Minnesota Life Bridge Admissions Coordinator will continue to review all referrals and applications to Minnesota Life Bridge to ensure potential admissions meet the admission criteria. The Minnesota Life Bridge Admissions Coordinator and the Information Coordinator will also continue to maintain current data on referrals, admissions, transitions, and people determined to be ineligible for Minnesota Life Bridge.

The Department will also continue best efforts to identify and overcome obstacles to continued compliance. As the Department does not have, the "authority" to purchase homes, one of the challenges to expanding access to residential community-based treatment is finding suitable property that the Department can lease. The purchase of land and buildings is done through the capital bonding process. Under this process, the Department needs to put forth a capital bonding request

¹ Competency restoration includes comprehensive treatment and evaluation of individuals who have been committed for competency restoration pursuant to Minnesota Rule of Criminal Procedure Rule 20.01 subd. 7. Services include, but are not limited to legal education (group and individual), psycho-social groups, psychiatric consultation, and rehabilitation programming in order to restore an individual's capacity to meaningfully participate in their criminal proceedings

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for funds to be used to purchase or build new facilities, and if approved, has authority that is limited to developing sites outlined only in that proposal. That is how the Department made the purchase of the current Minnesota State Operated Community Services-owned homes and why Minnesota State Operated Community Services pays bond debt payments annually. This process involves finding an investor who is willing to work with the Department and agrees to complete person-centered modifications that the Department needs to make to the home. As part of the continuous process improvement project, Minnesota Life Bridge is working with Direct Care and Treatment Community-Based Services and Disability Services Division to identify and find solutions to the barriers in placing residents into community settings, as evidenced by the recent discharges from Minnesota Life Bridge.

Evaluation Criteria 4:

Facilities notify legal representatives of residents and/or family to the extent permitted by law, at least annually, of their opportunity to comment in writing, by e-mail, and in person, on the operation of the Facility

State of Compliance

The Department has met criteria for Evaluation Criteria 4. In September 2015, Minnesota Life Bridge sent out satisfaction surveys for the three people who transitioned from Stratton Lake and Brobergs Lake to the community.² Surveys are in the relevant language and include notification that survey responders can offer comments in multiple ways.

For two people, staff sent the survey to the person, their legal representative, and to their case manager; Minnesota Life Bridge received all surveys back, except from one case manager. Minnesota Life Bridge sent the survey to the third person who is his or her own guardian. The four residents at East Central completed satisfaction surveys in May 2015.

Upon receipt of survey responses, Minnesota Life Bridge and East Central reviews data, and incorporate changes into an action plan, if needed, to address concerns indicated by the survey responses. Minnesota Life Bridge or East Central staff will contact responders as appropriate regarding survey responses to discuss and better address their concerns. Minnesota Life Bridge and East Central have and will continue to collect and review data and incorporate changes into an action plan if changes are indicated. The *Jensen* Implementation Office will review survey responses and verify that Minnesota Life Bridge completes actions to address concerns.

Minnesota Life Bridge will continue to distribute surveys within five business days to people who move from a Minnesota Life Bridge home after each transition from the facility. Because of the small

² **Note:** Four people transitioned out of a Minnesota Life Bridge home; one of the four moved from one Minnesota Life Bridge home to another home.

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population served, there are not a large number of surveys sent out or returned. The *Jensen* Implementation Office also plans to discuss with Minnesota Life Bridge increasing the frequency of satisfaction surveys for persons admitted to Minnesota Life Bridge.

Settlement Agreement Section V.A. Prohibited Techniques – Restraint (EC 5 - 7)

Evaluation Criteria 5:

The State/DHS immediately and permanently discontinues all the prohibited restraints and techniques.

State of Compliance

The Department has met criteria for Evaluation Criteria 5. During this reporting period, Minnesota Life Bridge staff did not use any prohibited restraints or techniques and there were no instances of prohibited use of PRN³ / standing orders medication. Minnesota Life Bridge staff submitted DHS-3654 Notification forms for PRN medication requests, 911 calls, and hospitalizations. The Court Monitor and Parties receive copies of the DHS-3654 Notification forms.

Minnesota Life Bridge staff review incidents quarterly at Incident Review Meetings. In July 2015, Minnesota Life Bridge began incorporating additional analysis detail into Incident Review Meetings meeting notes. Specifically, beginning October 2015, Minnesota Life Bridge will include incident trend graphing in the Minnesota Life Bridge Incident Review Meeting notes.

To ensure that the Department continues to meet criteria for EC 5, the *Jensen* Implementation Office, *Jensen* Internal Reviewer and Minnesota Life Bridge will continue enforcing the prohibition on specified techniques and restraints and continue to train new employees and provide annual retraining to employees on prohibited and permitted restraints and techniques.

Jensen Implementation Office met with the Department's MN.IT Services (information technology services office) in September 2015 to request a technology solution to allow the *Jensen* Implementation Office to receive electronic copies of incident reports of class members and members of the therapeutic follow-up group within 24 hours of submission. A change request is currently in queue for assignment to the Department's MN.IT Services staff.

³ Abbreviation for "pro re nata," a Latin phrase meaning "as needed."

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Evaluation Criteria 6:

The State/DHS has not used any of the prohibited restraints and techniques.

State of Compliance

The Department has met criteria for Evaluation Criteria 6. Stratton Lake, Brobergs Lake and East Central, had no emergency use of restraints during this reporting period. Since January 1, 2015, there have been two incidents involving manual restraints. These incidents occurred on February 14, 2015, and on April 28, 2015. Both incidents occurred at Stratton Lake and they involved two different people. These incidents, that occurred prior to the reporting period, are described in detail below.

February 14, 2015 Incident: Staff attempted to redirect the person (T1) verbally from cooking a full package of bacon and full package of sausage to eat. The person had a significant history of fully burning items when cooking and refusing staff assistance (resulting in grease fires). The person threw two glasses with water and juice and a Tupperware dish of grapes, with a small amount of water in it at staff. The person approached the staff in a threatening manner, aggressively swinging, knocking off staff's eyeglasses while continuing to aggress toward staff. Staff implemented an emergency use of manual restraint (EUMR) for two minutes to limit the continued aggression. Minnesota Life Bridge contacted the Medical Officer but not within 30 minutes of the emergency's onset. The staff person was not able to locate the phone number to call the Medical Director. S/he called the on-call supervisor who provided the phone number, and then called the Medical Officer. Minnesota Life Bridge has reviewed this incident and has ensured that the phone number for the Medical Director is clearly posted in all homes.

Minnesota Life Bridge management determined there were no issues with staff performance during the incident as staff attempted to follow the policy; the issue was that staff on duty could not easily locate the number. The designated coordinator verified the documentation of contact with the Medical Officer on the DHS-3654 form. The *Jensen* Implementation Office verified the DHS-3654 as completed timely and accurately. Staff also incorporated the DHS-3654 form into the person's medical record at Minnesota Life Bridge.

The emergency use of manual restraint was appropriate due to the continuous aggression toward the staff after not accepting staff attempts to assist in alternatives to prepare food in a safe manner (history of cooking in an unsafe manner, high heat, refusing assistance when needed, preferring items with high grease content, etc.). Program changes implemented included securing large quantities of food items while making available smaller portions for individual use, reducing the concern for safety and possible power struggles.

April 28, 2015 Incident: At 6:15 pm, after returning from an afternoon activity, the person (S2) appeared more upset and impatient for dinner. After eating, she began yelling at staff, desiring scissors and a yarn hook. She stated "staff always take her stuff and wreck her yarn." The person wanted to call the home's lead staff to tell her "staff owes her three skeins of yarn." The person took

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the phone, went to her room, and slammed the door shut. Staff attempted to assist the person by following her to assist in untangling her yarn. She yelled and blamed staff for tangling her yarn, throwing the phone directly at staff and hitting him/her in the right leg. The person charged toward staff, swinging, kicking and attempted to push staff down the stairs from the top of the stairway. The person's glasses fell off and were stepped on. The person noticed her glasses on the floor, escalated, continuing to throw punches and kicking staff. Additional staff came upstairs and assisted the person to her bedroom away from the top of the stairs. The person continued to be physically aggressive and was swinging, kicking, spitting and trying to bite staff. Due to the level of physical aggression, staff used a modified side lying hold while on her bed. One staff held the right arm, the second staff held the left arm, and a third staff managed her legs during kicking.

After three minutes, staff released the person from the emergency use of manual restraint, the person immediately went down stairs and grabbed the phone she previously threw at staff, and called 911 herself. Law enforcement and the ambulance arrived shortly after and talked with the person for approximately one hour. The person argued and yelled at law enforcement and the Emergency Medical Technician (EMT), yelling she will "do anything to be anywhere but here at Stratton Lake." The person threatened to jump off the roof when law enforcement leaves because she was not happy the EMT/police would not take her to the hospital. As soon as law enforcement left, the person came down stairs to the kitchen, smashed a watermelon and pineapple on the kitchen floor, and threw the ceramic containers of apples creating a huge mess in the kitchen and living room. The person went back to her room, and entered onto the roof from her bedroom window. Staff called 911 and went outside to talk with the person from the front of the home. The person calmed down talking with staff, apologized for attacking staff. When law enforcement arrived the second time, staff assisted the person back into her bedroom from the roof. The person talked with law enforcement for about ten minutes. At 8:45 pm, the person spoke to the home lead staff regarding the evening and agreed to assist staff to clean up the mess she made. The person was polite and helpful assisting staff cleaning up the mess.

A DHS-3654 form was completed for the incident that included two 911 calls, and the use of manual restraint. The DHS-3654 form contains evidence of review by the Minnesota Life Bridge Operations Manager. Stratton Lake staff documented on the restraint form the circumstances leading up to the restraint, what imminent risk of harm precipitated the application of the restraint, observations during the restraint use, antecedent and subsequent behaviors, de-escalation and intervention strategies and outcomes. It is documented that the staff forgot to call the Medical Officer because of the intensity of the situation following the use of the manual restraint, and because of the onsite presence of law enforcement.

As part of Minnesota Life Bridge management's internal review, it was determined that the emergency use of manual restraint was appropriate due to the intensity and frequency of the aggression. Staff attempted to assist positively, but the person was not willing to accept redirection or assistance until law enforcement was on its way the second time. Minnesota Life Bridge management

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judged the threats of self-harm to be significant and staff correctly called 911 to assist if needed. As part of the internal review, Minnesota Life Bridge management also reviewed with staff the policy breakdown.

The *Jensen* Implementation Office reviewed the DHS-3654 form, determined it was complete, and distributed timely.

To ensure that the Department continues to meet criteria for EC 6, the *Jensen* Implementation Office, *Jensen* Internal Reviewer and Minnesota Life Bridge will continue enforcing the prohibition on specified techniques and restraints, continue to train new employees, and provide annual retraining to employees on prohibited and permitted restraints and techniques. If there is any use of prohibited techniques, Minnesota Life Bridge staff will report its use to the Minnesota Adult Abuse Reporting Center (MAARC)⁴ and will investigate as a potential allegation of abuse.

The *Jensen* Implementation Office met with the Department's MN.IT services staff in September 2015 to request a technology solution to allow the *Jensen* Implementation Office to receive electronic copies of incident reports of class members and members of the therapeutic follow-up group within 24 hours of submission. A change request is currently in queue for assignment to the Department's MN.IT services staff.

Evaluation Criteria 7:

Medical restraint, and psychotropic/ neuroleptic medication have not been administered to residents for punishment, in lieu of habilitation, training, behavior support plans, for staff convenience or as behavior modification.

State of Compliance

The Department has met criteria for Evaluation Criteria 7. Stratton Lake, Brobergs Lake and East Central, had no use of medical restraint and psychotropic/neuroleptic medications prohibited by Evaluation Criteria 7.

Minnesota Life Bridge facility policy continues to forbid specifically the use of restrictive interventions, including medical restraints and/or psychotropic/neuroleptic medication for: the purposes of punishment; in lieu of habilitation, training, or behavior support plans; for staff convenience; or as a behavior modification.

To ensure that the Department continues to meet criteria for EC 7, the *Jensen* Implementation Office, *Jensen* Internal Reviewer and Minnesota Life Bridge will continue enforcing the prohibitions on

⁴ Minnesota Adult Abuse Reporting Center (MAARC) is the common entry point established by the commissioner of human services under Minnesota Statutes 626.557 Subds. 4 and 9

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Medical restraint, and psychotropic/ neuroleptic medication and maintaining staff training and awareness.

Settlement Agreement Section V.B. Prohibited Techniques – Policy (EC 8 - 10)

Evaluation Criteria 8:

Restraints are used only in an emergency.

State of Compliance

The Department has met criteria for Evaluation Criteria 8. Stratton Lake, Brobergs Lake and East Central, had no emergency use of restraints during this reporting period. Since January 1, 2015, there have been two incidents involving manual restraints, which occurred on February 14, 2015 and on April 28, 2015. Both incidents occurred at Stratton Lake and involved two different people. These incidents occurred prior to the reporting period. These incidents are described in detail under Evaluation Criteria 6.

The people Minnesota Life Bridge provides services to are typically people with a history of need for emergency interventions. The need for emergency interventions is not always predicable, but Minnesota Life Bridge staff are trained to observe and to provide positive suggestions / interventions. Staff document any emergency use of manual restraint on the DHS-3654 forms, which are reviewed by the Minnesota Life Bridge Operations Director and Clinical Director as well as the Internal Reviewer to help learn and avoid or mitigate triggers.

To ensure that the Department continues to meet criteria for EC 8, the *Jensen* Implementation Office, *Jensen* Internal Reviewer and Minnesota Life Bridge will continue enforcing the prohibition on specified techniques and restraints and continue to train new employees and provide annual retraining to employees on prohibited and permitted restraints and techniques. Minnesota Life Bridge will also continue to track, and the *Jensen* Implementation Office will verify, staff's successful completion of training. If there is any use of prohibited techniques, Minnesota Life Bridge staff will report its use to the Minnesota Adult Abuse Reporting Center (MAARC) and will investigate as a potential allegation of abuse.

Minnesota Life Bridge staff will continue to review incidents quarterly at Incident Review Meetings. In July 2015, Minnesota Life Bridge began incorporating additional analysis detail into Incident Review Meetings meeting notes. Specifically, beginning October 2015, Minnesota Life Bridge will include incident trend graphing in the Minnesota Life Bridge Incident Review Meeting notes. Direct Care and Treatment Community Based Services also reviews Minnesota Life Bridge incidents and restraint use during their Quality Assurance/Performance Improvement meetings.

Jensen Implementation Office met with the Department's MN.IT services staff in September 2015 to request a technology solution to allow the *Jensen* Implementation Office to receive electronic copies of

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incident reports within 24 hours of submission. A change request is currently in queue for assignment to MN.IT services staff.

Evaluation Criteria 9:

The Policy (Settlement Agreement Att. A, as it may be revised after court approval, dissemination and staff training) was followed in each instance of manual restraint

State of Compliance

The Department has met criteria for Evaluation Criteria 9. Stratton Lake, Brobergs Lake and East Central, had no emergency use of restraints during this reporting period. Since January 1, 2015, there have been two incidents involving manual restraints, which occurred on February 14, 2015, and on April 28, 2015. These incidents, which occurred prior to the reporting period, are described in detail under Evaluation Criteria 6. The follow-up that occurred is also described in Evaluation Criteria 6.

Minnesota Life Bridge will continue training to ensure staff awareness of prohibited and permitted restraints and techniques. The *Jensen* Implementation Office will verify that staff training on prohibited techniques continues to take place at new employee orientation and at annual staff training sessions.

Evaluation Criteria 10:

There were no instances of prone restraint, chemical restraint, seclusion or time out. [Seclusion: evaluated under Sec. V.C. Chemical restraint: evaluated under Sec. V.D.]

State of Compliance

The Department has met criteria for Evaluation Criteria 10. During this reporting period, there were no instances of prone restraint, chemical restraint, seclusion or time out.

To ensure that the Department continues to meet criteria for EC 10, Minnesota Life Bridge will continue training to ensure staff awareness of the prohibition of prone or chemical restraint, seclusion, and time out. The *Jensen* Implementation Office will verify that staff training on prohibited techniques continues to take place at new employee orientation and at annual staff training sessions.

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Settlement Agreement Section V.C. Prohibited Techniques – Seclusion and Time Out (EC 11 - 12)

Evaluation Criteria 11

There were zero instances of the use of Seclusion. Facility policy shall specify that the use of seclusion is prohibited.

State of Compliance

The Department has met criteria for Evaluation Criteria 11. Facility policy continues to specify that the use of seclusion is prohibited. During this reporting period, there were no instances of the use of seclusion.

To ensure that the Department continues to meet criteria for EC 11, Minnesota Life Bridge will continue training to ensure staff awareness of the prohibition of seclusion. The *Jensen* Implementation Office will verify that staff training on prohibited techniques continues to take place at new employee orientation and at annual staff training sessions.

Evaluation Criteria 12

There were zero instances of the use of Room Time Out from Positive Reinforcement. Facility policy shall specify that the use of time out from positive reinforcement is prohibited.

State of Compliance

The Department has met criteria for Evaluation Criteria 12. Facility policy continues to specify that the use of time out from positive reinforcement is prohibited. During this reporting period, there were zero instances of the use of Room Time Out from Positive Reinforcement.

To ensure that the Department continues to meet criteria for EC 12, Minnesota Life Bridge will continue training to ensure staff awareness of the prohibition of the use of room time out from positive reinforcement. The *Jensen* Implementation Office will verify that staff training on prohibited techniques continues to take place at new employee orientation and at annual staff training sessions.

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**Settlement Agreement Section V.D. Prohibited Techniques – Chemical Restraint
(EC 13 - 14)**

Evaluation Criteria 13

There were zero instances of drug / medication use to manage resident behavior OR to restrain freedom of movement. Facility policy specifies the Facility shall not use chemical restraint. A chemical restraint is the administration of a drug or medication when it is used as a restriction to manage the resident's behavior or restrict the resident's freedom of movement and is not a standard treatment or dosage for the resident's condition.

State of Compliance

The Department has met criteria for Evaluation Criteria 13. Facility policy continues to specify the facility shall not use chemical restraint. During this reporting period, there were zero instances of drug / medication use to manage resident behavior OR to restrain freedom of movement. There have been no instances of chemical restraint since the U.S. District Court for the District of Minnesota adopted a Settlement Agreement on December 5, 2011.

To ensure that the Department continues to meet criteria for EC 13, Minnesota Life Bridge will continue training to ensure staff awareness of the prohibition of the use of chemical restraint. The *Jensen* Implementation Office will verify that staff training on prohibited techniques continues to take place at new employee orientation and at annual staff training sessions.

Evaluation Criteria 14

There were zero instances of PRN orders (standing orders) of drug/ medication used to manage behavior or restrict freedom of movement. Facility policy specifies that PRN/ standing order medications are prohibited from being used to manage resident behavior or restrict one's freedom of movement

State of Compliance

The Department HS has met criteria for Evaluation Criteria 14. Facility policy continues to specify PRN/standing order medications are prohibited from being used to manage resident behavior or restrict one's freedom of movement. During this reporting period, there were no instances of prohibited use of PRN /standing orders medication.

To ensure that The Department continues to meet criteria for EC 14, Minnesota Life Bridge will continue training to ensure staff awareness of the prohibition of PRN/ standing order medications to manage resident behavior or restrict one's freedom of movement. The *Jensen* Implementation Office will verify that staff training on prohibited techniques continues to take place at new employee orientation and at annual staff training sessions.

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Settlement Agreement Section V.E. Prohibited Techniques – 3rd Party Expert (EC 15 – 24)

Evaluation Criteria 15

There is a protocol to contact a qualified Third Party Expert.

State of Compliance

The Department has met criteria for Evaluation Criteria 15. As of March 17, 2013, the Department had not been able to secure the services of qualified third party experts. In accordance with sections V.E. and V.F. of the Settlement Agreement, the Department initiated the Medical Officer Review.

The Department had identified as an obstacle finding qualified professionals willing to be a Third Party Expert.

Evaluation Criteria 16

There is a list of at least 5 Experts pre-approved by Plaintiffs & Defendants. In the absence of this list, the DHS Medical or designee shall be contacted.

State of Compliance

The Department has met criteria for Evaluation Criteria 16. In August 2014, in discussions with interested persons, people preferred at that time that Minnesota Life Bridge continue using the approved Medical Officer Review process rather than attempting to contract with an outside Third Party Expert.

The Department continues to have the approved Medical Officer Review process in place.

Evaluation Criteria 17

DHS has paid the Experts for the consultations

State of Compliance

The Department has met criteria for Evaluation Criteria 17. At this time, the Department continues to use the approved Medical Officer Review process.

Evaluation Criteria 18

A listed Expert has been contacted in each instance of emergency use of restraint

State of Compliance

At this time, the Department continues to use the approved Medical Officer Review process.

Stratton Lake, Brobergs Lake and East Central, had no emergency use of restraints during this reporting period. However, in the two emergency use of restraints on February 14, 2015 and April 28,

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2015, described in Evaluation Criteria 6, staff failed to contact the Medical Officer no later than 30 minutes after presentation of the emergency. These incidents occurred prior to the reporting period. During the February 14, 2015 incident, the staff person was not able to locate the phone number to call the Medical Director. S/he called the on-call supervisor who provided the phone number, and then called the Medical Officer. During the April 28, 2015 incident, the staff forgot to call the Medical Officer because of the intensity of the situation following the use of the manual restraint, and because of the on-site presence of law enforcement. Minnesota Life Bridge management followed up with staff following each incident and determined there were no issues with staff performance during the incident. The numbers staff are to call are now clearly posted in all homes.

Evaluation Criteria 19

Each consultation occurred no later than 30 minutes after presentation of the emergency.

State of Compliance

At this time, the Department continues to use the approved Medical Officer Review process.

Stratton Lake, Brobergs Lake and East Central, had no emergency use of restraints during this reporting period. However, in the two emergency use of restraints that occurred prior to this reporting period on February 14, 2015 and April 28, 2015, described in Evaluation Criteria 6, staff failed to contact the Medical Officer no later than 30 minutes after presentation of the emergency. During the February 14, 2015 incident, the staff person was not able to locate the phone number to call the Medical Director. S/he called the on-call supervisor who provided the phone number, and then called the Medical Officer. During the April 28, 2015, incident, the staff forgot to call the Medical Officer because of the intensity of the situation following the use of the manual restraint, and because of the on-site presence of law enforcement. Minnesota Life Bridge management followed up with staff following each incident and determined there were no issues with staff performance during the incident. The numbers staff are to call are now clearly posted in all homes.

Evaluation Criteria 20

Each use of restraint was an "emergency."

State of Compliance

Stratton Lake, Brobergs Lake and East Central had no emergency use of restraints during this reporting period. Since January 1, 2015, there have been two incidents involving manual restraints on February 14, 2015 and on April 28, 2015. Both occurred at Stratton Lake, involved two different people, and occurred prior to this reporting period. These incidents were described in detail under Evaluation Criteria 6. In both incidents, Minnesota Life Bridge management determined that the emergency use of manual restraint was appropriate.

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Evaluation Criteria 21

The consultation with the Expert was to obtain professional assistance to abate the emergency condition, including the use of positive behavioral supports techniques, safety techniques, and other best practices. If the Expert was not available, see V.F. below.

State of Compliance

At this time, the Department continues to use the approved Medical Officer Review process.

Stratton Lake, Brobergs Lake and East Central, had no emergency use of restraints during this reporting period. However, in the two emergency use of restraints that occurred outside of this reporting period on February 14, 2015 and April 28, 2015, described in Evaluation Criteria 6, staff failed to contact the Medical Officer no later than 30 minutes after presentation of the emergency.

See also Evaluation Criteria 19

Evaluation Criteria 22

The responsible Facility supervisor contacted the DHS medical officer on call not later than 30 minutes after the emergency restraint use began.

State of Compliance

Stratton Lake, Brobergs Lake and East Central, had no emergency use of restraints during this reporting period. However, in the two emergency use of restraints that occurred outside of the reporting period on February 14, 2015 and April 28, 2015, described in Evaluation Criteria 6, staff failed to contact the Medical Officer no later than 30 minutes after presentation of the emergency. See also Evaluation Criteria 19

Evaluation Criteria 23

The medical officer assessed the situation, suggested strategies for de-escalating the situation, and approved of, or discontinued the use of restraint.

State of Compliance

Stratton Lake, Brobergs Lake and East Central, had no any emergency use of restraints during this reporting period. However, in the two emergency use of restraints that occurred outside of the reporting period on February 14, 2015 and April 28, 2015, described in Evaluation Criteria 6, staff failed to contact the Medical Officer no later than 30 minutes after presentation of the emergency.

See also Evaluation Criteria 19

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Evaluation Criteria 24

The consultation with the medical officer was documented in the resident's medical record.

State of Compliance

Stratton Lake, Brobergs Lake and East Central, had no emergency use of restraints during this reporting period. However, in the two emergency use of restraints that occurred outside of the reporting period on February 14, 2015 and April 28, 2015, described in Evaluation Criteria 6, staff failed to contact the Medical Officer no later than 30 minutes after presentation of the emergency.

See also Evaluation Criteria 19

Settlement Agreement Section V.G. Prohibited Techniques – Zero Tolerance for Abuse and Neglect (EC 25 – 27)

Evaluation Criteria 25

All allegations were fully investigated and conclusions were reached. Individuals conducting investigations will not have a direct or indirect line of supervision over the alleged perpetrators; the DHS Office of the Inspector General satisfies this requirement. Individuals conducting investigations, interviews and/or writing investigative reports will receive competency-based training in best practices for conducting abuse / neglect investigations involving individuals with cognitive and/or mental health disabilities and interviewing.

State of Compliance

Between May and September 2015, the Office of Inspector General issued 14 reports on investigations involving *Jensen Class Members*. These reports contained 17 allegations. Nine of the 14 reports included a substantiated finding.

Two of the nine reports with a substantiated finding involved two different vulnerable adults at different Minnesota State Operated Services facilities. Seven of the nine reports with a substantiated finding involved private providers; two of the seven reports involved the same vulnerable adult (J3) with the same private provider. The Office of Inspector General determined that the substantiated maltreatment for which the staff person was responsible in both reports involving J3 did not meet statutory criteria to be determined as recurring or serious. No additional reports were received involving this vulnerable adult or provider during this reporting period.

The Department's Chief Compliance Officer Gregory Gray continues to meet the qualifications to conduct peer quality reviews of investigations and has continued to provide peer quality reviews of investigations. The Department also continues to contract with Greg Wiley as needed, to conduct independent investigations. Mr. Wiley has completed the required competency-based training.

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Evaluation Criteria 26

All staff members found to have committed abuse or neglect were disciplined pursuant to DHS policies and collective bargaining agreement, if applicable.

State of Compliance

The Department Office of the Inspector General substantiated one allegation of neglect involving three Minnesota Life Bridge employees in May 2014. The process is underway to determine what actions the Department will take with each employee pursuant to policies and the bargaining agreement. The employees have not exhausted their appeal rights.

Since the Office of Inspector General issued their May 20, 2014 report regarding their completed investigation, two of the three employees have appealed. Appeal hearings were scheduled for January 2015 and March 2015, but both hearings were postponed.

The two employees who appealed are still working at Minnesota Life Bridge in accordance with their union/employee rights. The third employee who did not appeal, no longer works at Minnesota Life Bridge (since January 2015).

Internal review completed by the *Jensen* Implementation Office has determined that Minnesota Life Bridge followed policies and procedures. Minnesota Life Bridge and the *Jensen* Implementation Office will continue to monitor the legal process and follow the Department's policy and Union contracts regarding disciplinary actions.

Evaluation Criteria 27

Where appropriate, the State referred matters of suspected abuse or neglect to the county attorney for criminal prosecution.

State of Compliance

There were no known referrals of suspected abuse or neglect sent to the county attorney for criminal prosecution during this reporting period. The Department, Minnesota Life Bridge and the *Jensen* Implementation Office will continue to monitor for suspected abuse or neglect.

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**Settlement Agreement Section VI.A. Restraint Reporting & MGMT – Form 31032
(EC 28 – 30)**

Evaluation Criteria 28

Form 31032 (or its successor) was fully completed whenever use was made of manual restraint.

State of Compliance

The DHS-3654 Form is the current form for reporting restraint use, 911 calls, and client requests for PRN medications. The Minnesota Life Bridge designated coordinator is responsible for reviewing the DHS-3654 forms for compliance. The designated coordinator is also responsible to follow up with the staff responsible for completing the form if there is any missing or unclear information or if staff did not submit the form timely.

There were no instances of manual restraint use at Minnesota Life Bridge during this reporting period.

Evaluation Criteria 29

For each use, Form 31032 (or its successor) was timely completed by the end of the shift.

State of Compliance

The DHS-3654 Form is the current form for restraint use, 911 calls, and client requests for PRN medications. The Minnesota Life Bridge designated coordinator is responsible for reviewing the DHS-3654 forms for compliance. The Minnesota Life Bridge designated coordinator is responsible for reviewing the DHS-3654 forms for compliance. The designated coordinator is also responsible to follow up with the staff responsible for completing the form if there is any missing or unclear information or if staff did not submit the form timely.

There were no instances of manual restraint use at Minnesota Life Bridge during this reporting period.

Evaluation Criteria 30

Each Form 31032 (or its successor) indicates that no prohibited restraint was used.

State of Compliance

The DHS-3654 Form is the current form for restraint use, 911 calls, and client requests for PRN medications. The Minnesota Life Bridge designated coordinator is responsible for reviewing the DHS-3654 forms for compliance. The designated coordinator is also responsible to follow up with the staff responsible for completing the form if there is any missing or unclear information or if staff did not submit the form timely.

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There were no instances of manual restraint use at Minnesota Life Bridge during this reporting period.

Settlement Agreement Section VI.B. Restraint Reporting & MGMT – Notifications (EC 31 – 37)

Evaluation Criteria 31

Within 24 hours, and no later than one business day, Form 31032 (or its successor) in each instance was submitted to the Office of Health Facility Complaints.

State of Compliance

There were no instances of manual restraint use at Minnesota Life Bridge during this reporting period.

Evaluation Criteria 32

Within 24 hours, and no later than one business day, Form 31032 (or its successor) in each instance was submitted to the Ombudsman for MH & DD

State of Compliance

There were no instances of manual restraint use at Minnesota Life Bridge during this reporting period.

Evaluation Criteria 33

Within 24 hours, and no later than one business day, Form 31032 (or its successor) in each instance was submitted to the DHS Licensing

State of Compliance

There were no instances of manual restraint use at Minnesota Life Bridge during this reporting period.

Evaluation Criteria 34

Within 24 hours, and no later than one business day, Form 31032 (or its successor) in each instance was submitted to the Court Monitor and to the DHS Internal Reviewer

State of Compliance

There were no instances of manual restraint use at Minnesota Life Bridge during this reporting period.

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Evaluation Criteria 35

Within 24 hours, and no later than one business day, Form 31032 (or its successor) in each instance was submitted to the legal representative and/or family to the extent permitted by law.

State of Compliance

There were no instances of manual restraint use at Minnesota Life Bridge during this reporting period.

Evaluation Criteria 36

Within 24 hours, and no later than one business day, Form 31032 (or its successor) in each instance was submitted to the Case manager.

State of Compliance

There were no instances of manual restraint use at Minnesota Life Bridge during this reporting period.

Evaluation Criteria 37

Within 24 hours, and no later than one business day, Form 31032 (or its successor) in each instance was submitted to the Plaintiffs' Counsel.

State of Compliance

There were no instances of manual restraint use at Minnesota Life Bridge during this reporting period.

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Settlement Agreement Section VI.C. Restraint Responses Are Not To Replace Other Incident Reporting, Investigation, Analysis & Follow-Up (EC 38)

Evaluation Criteria 38

Other reports, investigations, analyses and follow up were made in each case of restraint use.

State of Compliance

There were no instances of manual restraint use at Minnesota Life Bridge during this reporting period.

Minnesota Life Bridge and the *Jensen* implementation Office is working with the Disability Services Division on review and analysis of Behavior Intervention Report Form (BIRF) ⁵data.

Beginning in October 2015, incident trend graphing will also be included in the Minnesota Life Bridge Incident Review Committee meeting notes. The *Jensen* Implementation Office data analyst will work with the Minnesota Life Bridge Information Coordinator to continue to identify and address trends and/or patterns from investigations.

Settlement Agreement Section VII.B. Restraint Review - Internal Reviewer (EC 39 – 41)

Evaluation Criteria 39

In consultation with the Court Monitor during the duration of the Court's jurisdiction, DHS designates one employee as Internal Reviewer whose duties include a focus on monitoring the use of, and on elimination of restraints.

State of Compliance

The Department has met criteria for Evaluation Criteria 39. During this reporting period, Dr. Richard Amado concluded his responsibilities as the *Jensen* Internal Reviewer. Until the Department identified and hired the new Internal Reviewer, Dr. Mary Piggott, a Ph.D. level, positive behavior support professional who currently works in the Department Disability Services Division's Community Capacity Team provided coverage of the Internal Reviewer responsibilities. Prior to Dr. Piggott assuming these duties, she received training from Dr. Amado. Dr. Amado was also available as needed for on-going mentoring.

In spite of an aggressive recruitment plan, the Department was unable to identify qualified candidates at the salary and classification that the Department DHS was able to offer. Through networking, the

⁵ "Behavior intervention report form" means the form prescribed by the commissioner to collect data in accordance with the requirements in Minnesota Statutes 245.8251, subdivision 2.

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Department learned that Dr. Daniel Baker might be interested in the position if the Department could meet his salary requirements.

The Department's Human Resources Division and the *Jensen* Implementation Office worked with Minnesota Management and Budget to allow an exception so that the Department could hire Dr. Baker to an Administrative Agency Division Director Senior unclassified position to meet Dr. Baker's salary requirements. The *Jensen* Implementation Office extended an offer to Dr. Baker, which was accepted. Dr. Baker will start his new position in December 2015.⁶

Dr. Baker's clinical focus is on positive behavior support, models of community and educational support, transition services, and mental health services for persons with disabilities. Dr. Baker earned his Ph.D. in Educational Psychology in 1992 and a Teaching License in 1990 from the University of Minnesota. He has worked with people with a range of disabilities; his applied work includes work in schools, residential settings for people with disabilities, recreational programs, and employment supports.

Dr. Baker is well published in both edited books and journals. Most of his published work addresses strategies for teaching direct care staff to work with persons who present challenges. His contributions earned him the 2010 Clinical Practice Award from NADD, an international professional association dedicated to advancing mental wellness for persons with Intellectual or Developmental Disabilities. Dr. Baker is a reviewer for the journals *Intellectual and Developmental Disabilities*, *American Journal of Intellectual and Developmental Disabilities*, and *Research in Developmental Disabilities*. Dr. Baker is involved with NADD, an association for persons with developmental disabilities and mental health needs, serving on the Board of Directors and co-editing *The NADD Bulletin* from 2006 - 2011.

Previously Dr. Baker was the Director of Community Positive Behavior Support, Transition, and Supported Employment Projects, and Associate Professor of Pediatrics at The Boggs Center on Developmental Disabilities, Rutgers University – Robert Wood Johnson Medical School.

Dr. Baker will receive training and mentoring from Dr. Amado and Dr. Piggott during December 2015. Beginning January 2016, Dr. Baker will assume responsibility of the monthly reports regarding Minnesota Life Bridge clients.

The *Jensen* Implementation Office e-mails the monthly Internal Reviewer reports to the Court Monitor, the Plaintiffs' Counsel, and the Office of Ombudsman for Mental Health and Developmental Disabilities and the Minnesota Governor's Office for Developmental Disabilities. These reports are also stored electronically on the Department's *Jensen* Settlement Agreement SharePoint site.

⁶ Dr. Baker officially started with the Department on December 1, 2015

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Evaluation Criteria 40

The Facility provided Form 31032 (or its successor) to the Internal Reviewer within 24 hours of the use of manual restraint, and no later than one business day.

State of Compliance

The Department has met criteria for Evaluation Criteria 40. There were no instances of manual restraint use during this reporting period.

To ensure that the Department continues to meet criteria for Evaluation Criteria 40, the new Internal Reviewer will receive training and mentoring by Dr. Amado and Dr. Piggott and the *Jensen* Implementation Office on responsibilities of the Internal Reviewer.

Minnesota Life Bridge will continue to provide notification to the Internal Reviewer within 24 hours of the use of a manual restraint.

Evaluation Criteria 41

The Internal Reviewer will consult with staff present and directly involved with each restraint to address: 1) Why/how de-escalation strategies and less restrictive interventions failed to abate the threat of harm; 2) What additional behavioral support strategies may assist the individual; 3) Systemic and individual issues raised by the use of restraint; and 4) the Internal Reviewer will also review Olmstead or other issues arising from or related to, admissions, discharges and other separations from the facility.

State of Compliance

The Department has met criteria for Evaluation Criteria 41. During this reporting period, Dr. Richard Amado concluded his responsibilities as the *Jensen* Internal Reviewer. Until the Department identified and hired the new Internal Reviewer, Dr. Mary Piggott a Ph.D.-level, positive behavior support professional who currently works in the Department's Disability Services Division's Community Capacity Team provided coverage of the Internal Reviewer responsibilities as identified in Evaluation Criteria 41. Prior to Dr. Piggott assuming these duties, she received training from Dr. Amado. Dr. Amado was also available as needed for on-going mentoring.

In spite of an aggressive recruitment plan, The Department was unable to identify qualified candidates at the salary and classification that the Department was able to offer. The Department's Human Resources Division and the *Jensen* Implementation Office worked with Minnesota Management and Budget to allow an exception to allow the Department to hire Dr. Baker to an Administrative Agency Division Director Senior unclassified position to meet Dr. Baker's salary requirements.

The *Jensen* Implementation Office extended an offer to Dr. Baker, which was accepted. Dr. Baker will start his new position in December 2015. Dr. Baker will receive training and mentoring from Dr. Amado and Dr. Piggott during December 2015 and beginning January 2016, Dr. Baker will assume responsibility of the monthly reports on Minnesota Life Bridge clients.

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For additional information on Dr. Baker's qualifications, see [Evaluation Criteria 39](#)

Settlement Agreement Section VII.B. Restraint Review - External Reviewer (EC 42 – 44)

Evaluation Criteria 42

On April 23, 2013, the Court appointed the Court Monitor as the External Reviewer, with the consent of Plaintiffs and Defendants. DHS funds the costs of the external reviewer.

Evaluation Criteria 43

After providing Plaintiffs' Class Counsel and the Department the opportunity to review and comment on a draft, the External Reviewer issues written quarterly reports informing the Department whether the Facility is in substantial compliance with the Agreement and the incorporated policies, enumerating the factual basis for its conclusions.

Evaluation Criteria 44

In conjunction with duties and responsibilities under the Order of July 17, 2012, the Court Monitor reviews and makes judgments on compliance, makes recommendations and offers technical assistance in his discretion, and files quarterly and other reports with the Court. Timing of reports is subject to the Court's needs, results of Monitor's reviews, and to the monitoring plan pursuant to the Order of August 28, 2013.

State of Compliance

The Department has met criteria for Evaluation Criteria 42, 43, and 44. During this reporting period, the *Jensen* Implementation Office received and responded to 18 requests for information on specific *Jensen* Class Members from the Court Monitor. These included requests for information on specific class members as well as requests for reports, access to DSD County E-list, Minnesota Life Bridge Incident Review Committee Meeting Notes and Commitment orders. In addition to these 18 requests from the Court Monitor, the Department sent to the Court Monitor 41 "Notices." Notices include DHS-3654 forms (Notice of Emergency Use of Manual Restraint, PRN medication requests, and 911 calls), admission /discharge information and major incidents involving class members. The *Jensen* Implementation Office also provides regular updates on three *Jensen* Class Members to the Court Monitor.

To ensure the Department continues to meet criteria for Evaluation Criteria 42, 43, and 44, the *Jensen* Implementation Office will continue to respond timely to Court Monitor requests for information and address Court Monitor recommendations and reports. The *Jensen* Implementation Office will document Court Monitor requests and the Department's responses in the DHS *Jensen* Settlement Agreement SharePoint site.

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External Entity and Plaintiffs' Access (EC 45 – 46)

Evaluation Criteria 45

The following have access to the Facility and its records: The Office of Ombudsman for Mental Health and Developmental Disabilities, The Disability Law Center, and Plaintiffs' Class Counsel.

Evaluation Criteria 46

The following exercised their access authority: The Office of Ombudsman for Mental Health and Developmental Disabilities, The Disability Law Center, and Plaintiffs' Counsel.

State of Compliance

The Department has met criteria for Evaluation Criteria 45 and 46. There has been and will be no limits on access to the Facility and its records for the Office of Ombudsman for Mental Health and Developmental Disabilities, the Disability Law Center, and Plaintiffs' Class Counsel.

Settlement Agreement Section VIII. Transition Planning (EC 47 - 53)

Evaluation Criteria 47

The State undertakes 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. Each individual currently living at the Facility, and all individuals admitted, will be assisted to move towards more integrated community settings. These settings are highly individualized and maximize the opportunity for social and physical integration, given each person's legal standing. In every situation, opportunities to move to a living situation with more freedom, and which is more typical, will be pursued.

State of Compliance

Minnesota Life Bridge provides people with the most integrated or best alternative setting while they plan for further transition to a more integrated setting in the community. For all persons served at Brobergs Lake and Stratton Lake facilities, Minnesota Life Bridge develops a draft transition plan within 30 days of admission that includes requirements identified in the Comprehensive Plan of Action and *Jensen Settlement Agreement*.

The *Jensen* Implementation Office completed desk audits of the transition plans for the three people who transitioned from Minnesota Life Bridge during this reporting period. Desk audits scores of these plans were 94% (D1) 95% (S1) and 94 % (S2). Transition plans for these three people include the elements identified in the CPA and *Jensen Settlement Agreement*.

During this reporting period, for the seven people receiving services at Minnesota Life Bridge three people moved out/transitioned from Stratton Lake and one person went from Stratton Lake to jail. However, the person who went from Stratton Lake to jail eventually transitioned to a community placement. As part of the transition process, Minnesota Life Bridge offered all people the opportunity to explore potential communities to identify places they find of value in a community, and to generate

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an impression of the community prior to committing to relocating there. All people had opportunities to meet potential housemates, interview staff and providers and spend time in the home. Minnesota Life Bridge gives all people the opportunity to make a choice about the living situation, request program enhancements or adjustments, or decline the option, as their transition process progresses. These opportunities appear to be helpful for people to learn how much their choices are valued, to have options, and to make plans and decisions.

One Minnesota Life Bridge client declined an option after visiting the home, residents, and staff on multiple occasions, as he learned more about how the home was not a good fit for his preferences. Minnesota Life Bridge supported his decision despite persistence from the provider and the county that the move was ready to happen. The person has now identified a new home that is a better fit for his preferences and is working on the transition to this location.

The Department will continue best efforts to identify and overcome obstacles to continued compliance. One of the primary challenges to continued compliance is community capacity. Once the person is committed to the commissioner, many county case managers feel that they do not have options for secure placement for that person. Some of the people have exhausted housing options prior to commitment. Additionally, providers are apprehensive to take persons with challenging behaviors. In some cases, providers feel that it could make the other people that they would be living with vulnerable. Recent changes in Minnesota Statutes, Chapter 245D and Minnesota Rule 9544 (Positive Supports Rule), have also caused some providers to be very selective in who they serve. Providers have told county case managers they cannot risk the liability that comes with serving certain people and the Department should consider how we can give them some protection from licensing if they are doing what they can to support someone.

To secure more housing options, Minnesota Life Bridge issued a Request for Information (RFI) in the July 27, 2015 edition of the *Minnesota State Register* (40 SR 79) and in the November 2, 2015 edition of the *Minnesota State Register* (40 SR 505). The purpose of the request for information was to solicit interest from private providers to collaborate with the Department / Minnesota Life Bridge to develop innovative and creative service alternatives for persons with complex and challenging needs. The Department also sent notification of the Request for Information to ARRM⁷ members on June 8, 2015 and on July 1, 2015 and posted the Request for Information on the public site in SWIFT (State Wide Integrated Financial Tools).

The Request for Information generated responses from two providers, but only one provider with experience working with challenging situations came to discuss what Minnesota Life Bridge was and

⁷ The ARRM acronym stands for "Association of Residential Resources in Minnesota." However, because members provide a wide range of community-based services in addition to residential supports the organization is now referred to as "ARRM."

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whom the program serves. Developing one provider at a time with support and follow-up by Minnesota Life Bridge might be a possible solution. Additionally, the Department will work to incorporate Olmstead work plan objectives to address challenges regarding community capacity. The Department will provide detail of these activities in future reports.

Minnesota Life Bridge has reported that it is difficult for some treatment teams to accept the direction/expectation of Minnesota Life Bridge during the person's stay, such as the importance of seeking permanent options or lack of willingness to accept positive behavior support/person-centered approaches. There could possibly be the mindset of seeing Minnesota Life Bridge as a longer-term placement rather than short-term service while seeking permanent placement. Minnesota Life Bridge is retooling their approaches to address any misconceptions for future teams, to identify the chosen direction of the person more quickly and to help teams stay focused on the larger picture.

The Department continues to identify additional training needs. Comprehensive behavioral support training based on evidenced-base models and/or recognized standards is critical to abate the continued need for crisis placements. Inconsistent training efforts result in unpredictable responses to crises. There also continues to be a need for education on current best practices of person-centered planning. Minnesota Life Bridge, Successful Life Project, and Community Services and Supports will continue providing training, information, and technical assistance as needed to ensure person-centered planning is implemented in accordance with *Jensen Settlement Agreement*, *Olmstead*, the Center for Medicare and Medicaid Services (CMS) Home and Community-Based Services regulations, and Minnesota statutes and rules on positive supports and person-centered planning.

Evaluation Criteria 48

The State actively pursues the appropriate discharge of residents and provided them with adequate and appropriate transition plans, protections, supports, and services consistent with such person's individualized needs, in the most integrated setting and to which the individual does not object.

State of Compliance

The Department has met the requirements of Evaluation Criteria 48. The Department has discharged all residents at MSHS-Cambridge to the community with person-centered transition plans. MSHS-Cambridge was closed effective August 30, 2014.

For all persons served at Minnesota Life Bridge Brobergs Lake and Stratton Lake facilities, Minnesota Life Bridge staff develop a draft transition plan within 30 days of admission. Minnesota Life Bridge recently put into use an updated version of the transition plan format that will enhance the team's ability to create effective transition plans.

During this reporting period, the *Jensen* Implementation Office completed desk audits of the transition plans for the three people who transitioned from Minnesota Life Bridge during this reporting period. Desk audit scores for these plans were 94% (D1) 95% (S1) and 94 % (S2). Transition

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plans for these three people also include the elements identified in the Comprehensive Plan of Action and *Jensen* Settlement Agreement.

The *Jensen* Implementation Office will meet with Minnesota Life Bridge staff by the end of December 2015 on improving the process for tracking changes on transition plans to identify when and what updates are made. Minnesota Life Bridge will implement agreed upon changes in January 2016.

The Department will continue best efforts to identify and overcome obstacles to continued compliance. One of the primary challenges to continued compliance is community capacity. Once the person is committed to the commissioner county case managers feel that it is no longer their responsibility to secure placement options for that person. There is a heavy dependence on Minnesota State Operated Community Services to create placement options. Additionally, Counties have shared with the Department that some providers are apprehensive to take persons who are transitioning from Minnesota Life Bridge. Recent changes in the requirements related to Minnesota Statutes chapter 245D, the positive supports rule and the risk that providers feel they take if things don't go well have also caused some providers to be very selective in who they serve. Providers have told county case managers they cannot risk the liability that comes with serving Minnesota Life Bridge clients. The Department will work to incorporate Olmstead work plan objectives to address challenges regarding community capacity. The Department will provide detail of these activities in future reports.

See also Evaluation Criteria 47 for additional challenges and barriers to discharge.

The *Jensen* Implementation Office will continue to provide training on *Jensen* Settlement Agreement requirements to counties, tribes, health plans, and providers. Working with the University of Minnesota - Institute of Community Integration, the Department published a Jensen "101" Module was in the College of Direct Supports in September 2015. No data are available yet on the number of people who have reviewed the module

Evaluation Criteria 49

Each resident, the resident's legal representative and/or family to the extent permitted by law, has been 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 (or they) prefer..

State of Compliance

The Department has met the requirements of Evaluation Criteria 49. For all 11 people served at Stratton Lake, Brobergs Lake, and East Central during this reporting period, the person, family, and/or legal representatives were encouraged to be involved in the team evaluation, decision-making, and planning process to the greatest extent practicable. Minnesota Life Bridge invited 16 family members and/or legal representatives to be involved in the team evaluation, decision-making, and planning process; 13 family members and/or legal representatives were actively involved and two residents are their own guardians

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To ensure that the Department continues to meet the requirements of Evaluation Criteria 49, Minnesota Life Bridge will continue to have the person involved in the team evaluation, decision-making, and planning process to the greatest extent practicable and to invite the person's family and/or legal representative(s) to be involved in those activities using the preferred communication method(s).

Evaluation Criteria 50

To foster each resident's self-determination and independence, the State uses 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.

State of Compliance

The Department has met the requirements of Evaluation Criteria 50. During this reporting period, all 11 people served at Stratton Lake, Brobergs Lake, and East Central had 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 incorporated in their treatment planning. All 11 people were involved in the development of their plans person-centered plans that included their preferred activities and choices for their goals and how they want to spend their time across the day. Many of the people served have minimal "freely-given, conflict-free" relationships. Part of the Minnesota Life Bridge program is to assist persons to connect to the community and to learn to develop healthy relationships.

During this reporting period, for all seven people served at Stratton Lake and Brobergs Lake, Minnesota Life Bridge enriched, altered, and moved forward each person-centered plan at least every 30 days, as the person became better known and was moving toward a new living situation. For residents of East Central, Minnesota Life Bridge reviewed and updated each person's person-centered plan quarterly. The residents at East Central consider East Central their home and very rarely choice to transition out.

The *Jensen* Implementation Office completed desk audits of the transition plans for the three people who transitioned from Minnesota Life Bridge during this reporting period. Desk audit scores for these plans were 94%, 95%, and 94 %. Transition plans for these three people also include the elements identified in the Comprehensive plan of Action and *Jensen* Settlement Agreement.

To ensure that the Department continues to meet the requirements of Evaluation Criteria 50, Minnesota Life Bridge recently put into place an improved version of the transition plan format that will enhance the team's ability to create effective transition plans. One of the challenges Minnesota Life Bridge has encountered is the provider's ability to implement the person-centered plan after the person has transitioned to the community. Minnesota Life Bridge staff are prepared to step in as

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needed after the person has transitioned to the community to provide supports and/ or referrals as needed.

Evaluation Criteria 51

Each resident has been given the opportunity to express a choice regarding preferred activities that contribute to a quality life.

State of Compliance

The Department has met the requirements of Evaluation Criteria 51. It is the current practice of Minnesota Life Bridge to provide all people with the opportunity to express choices regarding preferred activities. All 11 people served at Stratton Lake, Brobergs Lake, and East Central had person-centered planning principles used to facilitate the identification of specific interests, goals, likes and dislikes, abilities and strengths and support needs. Minnesota Life Bridge provides frequent, daily opportunities to engage in activities meaningful to the person.

Minnesota Life Bridge will continue at least monthly meetings with people served to allow them to determine and express choices about their life. Minnesota Life Bridge will continue implementation and revision of plans as necessary.

When people are admitted to Minnesota Life Bridge, they are often in a crisis and it may take time for them to be able to identify goals and other areas. Minnesota Life Bridge works with the person to help them get to the point where they are more able to express choices.

Evaluation Criteria 52

It is the State's goal that all residents be served in integrated community settings and services with adequate protections, supports and other necessary resources which are identified as available by service coordination. If an existing setting or service is not identified or available, best efforts will be utilized to create the appropriate setting or service using an individualized service design process.

State of Compliance

The language in Evaluation Criteria 52 continues to be the State's goal. The Department has issued Bulletins to describe Minnesota Life Bridge and the Successful Life Project. Minnesota Life Bridge and the *Jensen* Implementation Office have also provided training videoconferences and webinars. In 2014, the *Jensen* Implementation Office has sent to county case managers and providers the names of the people they serve who are *Jensen* class members and therapeutic follow-up members. The *Jensen* Implementation Office is developing a *Jensen* Case Manager Community of Practice to share information and best practices.

During this reporting period, Minnesota Life Bridge has offered all persons receiving services the opportunity to explore their future or potential future home communities to identify places they find of value in a home community, and to generate an impression of the community of interest prior to

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committing to relocating there. Minnesota Life Bridge conducts monthly inter-disciplinary team meetings and bi-weekly meetings with the person and their staff. Transition plans include choices for where people want to live and how the environment, roommates, and staff will interact with them. Transition plans are developed and refined over time, as the person moves past the crisis or emergent situation that led to their admission, and prepares for transition back to the community.

The persons residing at East Central consider that their home and so focus more of their time on integrating with the local community versus exploring / mapping it. One person has identified a possible new provider and is working with staff on the very early stages of exploration.

The Department will continue best efforts to identify and overcome obstacles to continued compliance. One of the primary challenges to continued compliance is community capacity. As persons transition out of Minnesota Life Bridge, it is difficult to locate housing that will provide an appropriate setting for them. Some of the persons need to be in a residential setting where there are no other people receiving services. As the housing market has been on an upswing in the last year or so, several potential houses became unavailable because of the timing of making offers. Efforts are in progress to make the process to locate and capture housing quicker and more efficient.

Minnesota Life Bridge issued a Request for Information (RFI) in the July 27, 2015, edition of the *Minnesota State Register* (40 SR 79) and in the November 2, 2015, edition of the *Minnesota State Register* (40 SR 505). The purpose of the request for information was to solicit interest from private providers to collaborate with the Department / Minnesota Life Bridge to develop innovative and creative service alternatives for persons with complex and challenging needs. The Department also sent notification of the Request for Information to ARRM⁸ members on June 8, 2015, and on July 1, 2015, and posted the Request for Information on the public site in SWIFT (State Wide Integrated Financial Tools).

The Request for Information generated responses from two providers, but only one provider with experience working with challenging situations involving person with disabilities came to discuss what Minnesota Life Bridge is and whom the program serves. Developing one provider at a time with support and follow-up by Minnesota Life Bridge might be a possible solution. Minnesota Life Bridge will continue to collaborate with the Disability Services Division Community Capacity Building team and the Community Supports Administration to locate, provide support for, or assist in the development of new services and new community residences. Additionally, the Department will work to incorporate Olmstead work plan objectives to address challenges regarding community capacity. The Department will provide detail of these activities in future reports.

⁸ The ARRM acronym stands for "Association of Residential Resources in Minnesota." However, because members provide a wide range of community-based services in addition to residential supports the organization is now referred to as "ARRM."

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Minnesota Life Bridge will also continue to work with providers willing to serve persons with complex behaviors and needs and to stress the necessity of identification of customized supports, driven by the person-centered plan developed by the person

Evaluation Criteria 53

The provisions under this Transition Planning Section have been implemented in accord with the Olmstead decision

State of Compliance

The Department has met the requirements of Evaluation Criteria 53. Interaction between the *Jensen* Implementation Office and the Olmstead Implementation Office occurs on an ad hoc basis, as well as at monthly scheduled meetings.

Minnesota Life Bridge continues to implement person-centered transition planning and provide people with opportunities to receive services in integrated settings, in accord with the Olmstead decision, to the extent possible and according to the preferences of the person. Minnesota Life Bridge will also continue to work with providers willing to serve persons with complex behaviors and needs and to stress the necessity of identification of customized supports, driven by the person-centered plan developed by the person.

Settlement Agreement Section IX.A. Other Practices at the Facility – Staff Training (EC 54- 57)

Evaluation Criteria 54

Facility treatment staff received training in positive behavioral supports, person-centered approaches, therapeutic interventions, personal safety techniques, crises intervention and post crisis evaluation.

State of Compliance

The Department has met the requirements of Evaluation Criteria 54. The *Jensen* Implementation Office has verified that Facility staff have received all required training. Dr. Steven Pratt, Direct Care and Treatment Medical Director has provided training sessions open to all Department employees on trauma informed care. A training session on trauma informed care is also included in New Employee Orientation for Facility treatment staff.

To ensure that the Department continues to meet the requirements of Evaluation Criteria 54, Minnesota Life Bridge will continue to monitor attendance at annual training sessions for the listed topics. Minnesota Life Bridge is organizing all historic training records for Minnesota Life Bridge staff for data entry into the Department's Pathlore Learning Management System, which the Department has updated to track individual staff competency results along with class completion. Minnesota Life Bridge will complete data entry into Pathlore by January 2016.

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Minnesota Life Bridge will also arrange for training sessions on trauma informed care or other topics for staff as needed.

Evaluation Criteria 55

Facility staff training is consistent with applicable best practices, including but not limited to the Association of Positive Behavior Supports, Standards of Practice for Positive Behavior Supports (<http://apbs.org>). Staff training programs will be competency-based with staff demonstrating current competency in both knowledge and skills

State of Compliance

The Department has met the requirements of Evaluation Criteria 55. All Minnesota Life Bridge staff receive training that is consistent with applicable best practices and are competency-based.

Minnesota Life Bridge's new person-centered planning facilitator, Mike Sherman, started work on April 22, 2015. Mr. Sherman's professional development plan includes attendance at a regional conference, involvement with the statewide person-centered thinking leaders program, and one-on-one mentoring from a senior, person-centered planning professional.

To ensure that the Department continues to meet the requirements of Evaluation Criteria 55, Minnesota Life Bridge is organizing all historic training records for Minnesota Life Bridge staff for data entry into the web-based the Department's Pathlore Learning Management System, which the Department has updated to track individual staff competency results along with class completion. Minnesota Life Bridge will complete data entry into Pathlore by January 2016.

Evaluation Criteria 56

The provisions under this Transition Planning Section have been implemented in accord with the Olmstead decision

State of Compliance

The Department has met the requirements of Evaluation Criteria 56. The *Jensen* Implementation Office has verified that all new hires for successor facilities have completed the required training. To ensure that the Department continues to meet the requirements of Evaluation Criteria 56, Minnesota Life Bridge is organizing all historic training records for Minnesota Life Bridge staff for data entry into the Department's web-based Pathlore Learning Management System, which the Department has updated to track individual staff competency results along with class completion. Minnesota Life Bridge will complete data entry into Pathlore by January 2016.

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Evaluation Criteria 57

For each instance of restraint, all Facility staff involved in imposing restraint received all the training in Therapeutic Interventions, Personal Safety Techniques, and Medically Monitoring Restraint

State of Compliance

There were no manual restraints used during this reporting period.

To ensure that the Department continues to meet the requirements of Evaluation Criteria 57, Minnesota Life Bridge will continue to provide its current training programs and to track staff attendance and completion of training. Minnesota Life Bridge is organizing all historic training records for Minnesota Life Bridge staff for data entry into the Department's web-based Pathlore Learning Management System, which the Department has updated to track individual staff competency results along with class completion. Minnesota Life Bridge will complete data entry into Pathlore by January 2016.

Settlement Agreement Section IX.B. Other Practices at the Facility – Hours of Training (EC 58)

Evaluation Criteria 58

Facility staff receive the specified number of hours of training: Person-centered planning and positive behavior supports (with at least sixteen (16) hours on person-centered thinking / planning); a total 40 hours; Post Crisis Evaluation and Assessment (4 hours).

State of Compliance

The Department has met the requirements of Evaluation Criteria 58. For Minnesota Life Bridge staff, the training hours identified in Evaluation Criteria 58 have been the standard of practice. The Minnesota Life Bridge training year runs from March 12 to March 11. The 2015/2016 annual training schedule is in progress. Staff receive the specified hours of training, scheduled throughout the year

To ensure that the Department continues to meet the requirements of Evaluation Criteria 58, Minnesota Life Bridge will continue to provide its current training programs and to track staff attendance and completion of training. Minnesota Life Bridge is organizing all historic training records for Minnesota Life Bridge staff for data entry into the Department's web-based Pathlore Learning Management System, which the Department has updated to track individual staff competency results along with class completion. Minnesota Life Bridge will complete data entry into Pathlore by January 2016.

The Minnesota Life Bridge Operations Manager or a designee and the *Jensen* Implementation Office will continue to ensure that all staff receive the required training.

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**Settlement Agreement Section IX.C. Other Practices at the Facility – Visitor Policy
(EC 59 – 61)**

Evaluation Criteria 59

Residents are permitted unscheduled and scheduled visits with immediate family and/or guardians, at reasonable hours, unless the Interdisciplinary Team (IDT) reasonably determines the visit is contraindicated

State of Compliance

The Department has met the requirements of Evaluation Criteria 59. During this reporting period, all 11 people served at Stratton Lake, Brobergs Lake and East Central had friends and family visit whenever they wanted, and had no limits on visitor access to living areas.

The visitor policy identified in Evaluation Criteria 59 - 61 continues to be Minnesota Life Bridge's facility policy and practice. Persons residing at the facility continue to visit with family and friends as desired. All Minnesota Life Bridge facilities allow scheduled and unscheduled visits. If there are any limits on visitors, based on the Interdisciplinary Team (IDT) determination or by Court Order, staff note that limit in the person's person-centered plan and/or facility records.

Evaluation Criteria 60

Visitors are allowed full and unrestricted access to the resident's living areas, including kitchen, living room, social and common areas, bedroom and bathrooms, consistent with all residents' rights to privacy.

State of Compliance

The Department has met the requirements of Evaluation Criteria 60. During this reporting period, all 11 people served at Stratton Lake, Brobergs Lake and East Central had friends and family visit whenever they wanted, and had no limits on visitor access to living areas. The visitor policy identified in Evaluation Criteria 59 - 61 continues to be Minnesota Life Bridge facility policy and practice.

Staff discuss the visitor policy with people served at resident house meetings if there are any questions, concerns, or issues. If there are any limits on visitors, based on the Interdisciplinary Team (IDT) determination or by Court Order, staff note that limit in the person's person-centered plan and/or facility records.

Evaluation Criteria 61

Residents are allowed to visit with immediate family members and/or guardians in private without staff supervision, unless the IDT reasonably determines this is contraindicated.

State of Compliance

The Department has met the requirements of Evaluation Criteria 61. During this reporting period, all 11 people served at Stratton Lake, Brobergs Lake, and East Central had friends and family visit

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whenever they wanted, and had no limits on visitor access to living areas. The visitor policy identified in Evaluation Criteria 59 - 61 continues to be Minnesota Life Bridge facility policy and practice.

Staff discuss the visitor policy with people served at resident house meetings if there are any questions, concerns, or issues. If there are any limits on visitors, based on the Interdisciplinary Team (IDT) determination or by Court Order, staff note that limit in the person's person-centered plan and/or facility records.

Settlement Agreement Section IX.D. Other Practices at the Facility – No Inconsistent Publicity (EC 62 – 64)

Evaluation Criteria 62

There is no marketing, recruitment of clients, or publicity targeted to prospective residents at the Facility.

State of Compliance

The Department has met the requirements of Evaluation Criteria 62. The Department does not engage in any marketing, recruitment of clients, or publicity targeted to prospective residents.

Evaluation Criteria 63

The Facility purpose is clearly stated in a bulletin to state court judges, county directors, social service supervisors and staff, county attorneys and Consumers and Families and Legal Representatives of consumers of Developmental Disabilities services. Any admission will be consistent with the requirements of this bulletin.

The Department has met the requirements of Evaluation Criteria 63. DHS issued Bulletin # 14-76-01: Transition of Minnesota Specialty Health System (MSHS) – Cambridge to Minnesota Life Bridge: Admission and Discharge Processes, Transition Planning and Community Mobile Support Services on April 29, 2014. All admissions to Minnesota Life Bridge are consistent with the requirements identified in the Bulletin. In addition to the Bulletin, information concerning admission to Minnesota Life Bridge is also available on-line in the Department's Community-Based Services Manual.

Evaluation Criteria 64

The Facility has a mission consistent with the Settlement Agreement and this Comprehensive Plan of Action.

State of Compliance

The Department has met the requirements of Evaluation Criteria 64. Minnesota Life Bridge's mission is consistent with the *Jensen Settlement Agreement* and functions as a transitional adult foster care home as required by the *Jensen Settlement Agreement* and EC 64. "Successful Transition to a Successful Life" appropriately describes the intent and purpose of Minnesota Life Bridge. Minnesota Life Bridge's mission is also consistent with *Olmstead's* requirement to provide people with the most

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integrated or best alternative for its residents while they plan for further transition to a more integrated setting in the community.

Individualized treatment continues to be a main function of Minnesota Life Bridge homes; staff use person-centered planning approaches with all Minnesota Life Bridge residents. People using Minnesota Life Bridge services do not have the choice of housemate, given the intent of Minnesota Life Bridge to provide short-term services. Roommates are a necessity given the limited amount of space available. However, with input and approval from the person and their team, Minnesota Life Bridge has moved some residents to another home to allow them to be in a location without a roommate.

Providing services to persons with complex needs is a multi-faceted undertaking and subject to continuous improvement. As part of a Direct Care and Treatment /Disability Services Division Continuous Process Improvement Project, Minnesota Life Bridge is working with Disability Services Division and Community Based Services to identify and find solutions to the barriers in placing residents into community settings, as evidenced by the recent discharges from Minnesota Life Bridge.

Settlement Agreement Section IX.E. Other Practices at the Facility – Posting Requirements (EC 65 - 66)

Evaluation Criteria 65

The Facility posts a Patient / Resident Rights or Bill of Rights, or equivalent, applicable to the person and the placement or service, the name and phone number of the person within the Facility to whom inquiries about care and treatment may be directed, and a brief statement describing how to file a complaint with the appropriate licensing authority.

State of Compliance

The Department has met the requirements of Evaluation Criteria 65. There are three versions of the Minnesota Life Bridge Rights Notice. One version contains the Minnesota Department of Health Care Bill of Rights (Minnesota Statute 144.6505). Another version contains the Department Service Recipient Rights. The third version includes pictures and simpler text and is at the Flesch-Kincaid Grade level 5.0. Minnesota Life Bridge posts the three versions of the Rights Notice in each Facility and provides a copy to the person and family/guardian at admission.

Evaluation Criteria 66

The Patient / Resident Bill of Rights posting is in a form and with content which is understandable by residents and family / guardians.

State of Compliance

The Department has met the requirements of Evaluation Criteria 66. There are three versions of the Minnesota Life Bridge Rights Notice. One version contains the Minnesota Department of Health Care Bill of Rights (Minnesota Statute 144.6505). Another version contains the Department Service

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Recipient Rights. The third version includes pictures and simpler text and is at the Flesch-Kincaid Grade level 5.0. Minnesota Life Bridge posts the three versions of the Rights Notice in each Facility and provides a copy to the person and family/guardian at admission. As part of the admission process, Minnesota Life Bridge can provide the notice in other languages besides English, if needed.⁹

Settlement Agreement Section X.A. System Wide Improvements – Expansion of Community Support Services (EC 67 – 78)

Evaluation Criteria 67

The expansion of community services under this provision allows for the provision of assessment, triage, and care coordination to assure persons with developmental disabilities receive the appropriate level of care at the right time, in the right place, and in the most integrated setting in accordance with the U.S. Supreme Court decision in Olmstead v. L.C. , 527 U.S. 582 (1999).

State of Compliance

Legislative action in 1993 created seven Community Support Services (CSS) teams across the state. Community Support Services provides community-based crisis intervention services through its mobile teams to support clinically complex persons in the community and build community capacity. Community Support Services provides clinical consultation and technical assistance in all 87 Minnesota counties. Community Support Services promotes supports that are person-centered and develop paid and non-paid caregiver skills. A primary emphasis for all services is to assist those who know the person best. Community Support Services may fill a direct service gap temporarily while elements of a successful life plan are developed. However, training and mentoring others remains the Community Support Services focus.

Community Support Services fully implemented its Statewide Referral Data Tracking system on April 21, 2015. From May 1, 2015 to September 30, 2015, Community Support Services received ten referral inquiries for people with developmental disabilities experiencing crisis; all ten inquiries resulted in referrals for Community Support Services.

On February 19, 2015, the Department launched the Single Point of Entry project. The Single Point of Entry is a Department-piloted process to improve the agency's ability to respond to requests for assistance in supporting people with disabilities who are in crisis. The Single Point of Entry pilot focuses on coordinating the Department efforts for the target population, defined as persons with

⁹ The MN Resident Bill of Rights (MN Department of Health statute version) is available online in several languages at <http://www.health.state.mn.us/divs/fpc/consumerinfo/index.html>.

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developmental or intellectual disabilities in crisis and at risk of losing their current placement. See also section on the Single Point of Entry.

To ensure that the Department continues to meet the requirements of Evaluation Criteria 67, Community Support Services will continue providing assessment, triage, and care coordination so people can receive the appropriate level of care in the most integrated setting that they agree to. Community Support Services will continue to document their actions and efforts, and the impact on people's stability. The weekly diversion meetings with Community Support Services, Minnesota Life Bridge, Successful Life Project, Disability Services Division and Central Pre-Admission will also continue and provide a platform to determine where is the best place for the person referred to Minnesota Life Bridge to receive assessments or services.

Evaluation Criteria 68

The Department identifies, and provides long term monitoring of, individuals with clinical and situational complexities in order to help avert crisis reactions, provide strategies for service entry changing needs, and to prevent multiple transfers within the system..

State of Compliance

The Department has met the requirements of Evaluation Criteria 68. Community Support Services continues to evolve and build community capacity to service person with developmental disabilities who are clinically complex. During this reporting period, Community Support Services staff provided services to people and their support networks statewide¹⁰:

- From April 25 to June 30, 2015, staff provided services to 307 people and their support networks statewide. That number includes 61 people with developmental disabilities receiving long-term monitoring ("Extended Supports").
- From July 1 to August 31, 2015, staff provided services to 301 people and their support networks statewide. That number includes 62 people with developmental disabilities receiving long-term monitoring
- From September 1 to September 30, 2015, staff provided services to 295 people and their support networks statewide. That number includes the 65 people with developmental disabilities receiving long-term monitoring.

The *Jensen* Implementation Office to work with Community Support Services to develop improved tracking of the 75 people receiving long-term monitoring as a means to provide monthly reports on unduplicated counts of people Community Support Services has served.

¹⁰ These counts are not unduplicated.

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Evaluation Criteria 69

Approximately seventy five (75) individuals are targeted for long term monitoring.

State of Compliance

The Department has met the requirements of Evaluation Criteria 69. During this reporting period, Community Support Services staff provided services to people with developmental disabilities receiving long-term monitoring¹¹:

- From April 25 to June 30, 2015, staff provided services to 61 people with developmental disabilities receiving long-term monitoring.
- From July 1 to August 31, 2015, staff provided services to 62 people with developmental disabilities receiving long-term monitoring.
- From September 1 to September 30, 2015, staff provided services to 65 people with developmental disabilities receiving long-term monitoring.

The *Jensen* Implementation Office is working with Community Support Services to develop improved tracking of the 75 people receiving long term monitoring as a means to provide monthly reports on unduplicated counts of people being served.

Evaluation Criteria 70

CSS mobile wrap-around response teams are located across the state for proactive response to maintain living arrangements.

State of Compliance

The Department has met the requirements of Evaluation Criteria 70. Eight of the 23 locations for Community Support Services regional or home offices are located in the greater Twin Cities metropolitan area. Fifteen of the 23 locations are located in what is often termed "outstate" or "greater" Minnesota. The outstate locations are generally located in towns or cities that are regional hubs that provide access to less populated areas of the state. Having teams located around the state allows for a quick response time for initial visits and crises, and allows for responses in the local settings (home, work, school, etc.).

To ensure that the Department continues to meet the requirements of Evaluation Criteria 70, Community Support Services will maintain locations of teams / staff to provide effective supports.

Evaluation Criteria 71

CSS arranges a crisis intervention within three (3) hours from the time the parent or legal guardian authorizes CSS' involvement.

¹¹ There counts are not unduplicated.

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State of Compliance

During this reporting period, the average time between receiving initial inquiry and Community Support Services sending out consents for services was 3.23 hours. The average time between receiving signed consents for service and Community Support Services initial service contact was 1.31 hours.¹²

Community Support Services has implemented a new electronic tracking form to monitor inquiries. There was time needed for staff to understand and correctly use the form. Community Support Services can now analyze the electronic database more easily than reviewing individual sheets of paper.

To ensure that the Department continues to meet the requirements of Evaluation Criteria 71, Community Support Services and the *Jensen* Implementation Office will continue to monitor implementation.

Evaluation Criteria 72

CSS partners with Community Crisis Intervention Services to maximize support, complement strengths, and avoid duplication.

State of Compliance

The Department has met the requirements of Evaluation Criteria 72. Community Support Services collaborates with a variety of community crisis intervention services providers to maximize support, complement strengths, and avoid duplication. There are regular and as-needed meetings on specific situations and on policy / practice. There is also ongoing collaboration with the Metro Crisis Coordination Program (MCCP), with quarterly meetings and ongoing interaction as needed to serve people.

Many of the people served by Community Support Services have a Medicaid Home and Community-Based Services (HCBS) waiver. One way Community Support Services avoids duplication is the requirement for the lead agency case manager to authorize services and document them in the person's plan.

To ensure that the Department continues to meet the requirements of Evaluation Criteria 72, Community Support Services will continue ad hoc and scheduled meetings with private sector crisis

¹² Whenever possible the lead consultant assigned to the case makes this initial contact to provide crisis intervention and initiate Community Support Services. When not possible for the assigned lead consultant to provide this initial service contact, the collaborative consultant ensures a seamless transition to the lead consultant through teaming or other methods as appropriate to the situation.

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intervention providers. Community Support Services will schedule regional meetings with lead agencies to discuss relevant resource issues and identify opportunities for strengthening Community Support Services supports.

Evaluation Criteria 73

CSS provides augmentative training, mentoring and coaching.

State of Compliance

The Department has met the requirements of Evaluation Criteria 73. Between April 25 and September 30, 2015, Community Support Services staff provided 36 augmentative support trainings sessions and trained 292 people. Community Support Services' Augmentative Supports is a direct service response that works side-by-side with a provider's employees to remediate crisis-related and situational complexities through short-term interventions. The shift work emphasizes modeling, coaching, training and implementation of activities designed by Community Support Services clinical lead staff. From the 36 training sessions provided, Community Support Services received 252 completed Training Satisfaction Surveys.

To ensure that the Department continues to meet the requirements of Evaluation Criteria 73, Community Support Services will continue to provide augmentative training, mentoring and coaching, and will review curricula at least annually and update as appropriate. The *Jensen* Implementation Office will verify the number of augmentative training, mentoring and coaching sessions Community Support Services provides, the number of people trained, and that Community Support Services reviews the curriculum at least annually and updated as appropriate.

Evaluation Criteria 74

CSS provides staff at community based facilities and homes with state of the art training encompassing person-centered thinking, multi-modal assessment, positive behavior supports, consultation and facilitator skills, and creative thinking.

State of Compliance

Between April 25 and September 30, 2015, Community Support Services staff provided 36 augmentative support trainings sessions and trained 292 people. Community Support Services' Augmentative Supports is a direct service response that works side-by-side with a provider's employees to remediate crisis-related and situational complexities through short-term interventions. Augmentative supports emphasizes modeling, coaching, training and implementation of activities designed by Community Support Services clinical lead staff.

During this reporting period, Michael Scharr, MS/LP led a workgroup to update the Community Support Services Positive Behavior Support curriculum to address new elements of the finalized

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Positive Supports Rule (MN Rule Chapter 9455)¹³. Mr. Scharr also led a workgroup that is reviewing and updating the Community Support Services Multimodal Functional Behavioral Assessment training curriculum.

To ensure that the Department continues to meet the requirements of Evaluation Criteria 74, Community Support Services will continue to provide augmentative training mentoring and coaching and will review curricula at least annually and update as appropriate. The *Jensen* Implementation Office will verify the number of augmentative training, mentoring and coaching sessions Community Support Services provides, the number of people trained and that Community Support Services reviews at least annually and updated as appropriate.

Evaluation Criteria 75

CSS' mentoring and coaching as methodologies are targeted to prepare for increased community capacity to support individuals in their community.

State of Compliance

The Department has met the requirements of Evaluation Criteria 75. Between April 25 and September 30, 2015, Community Support Services staff provided 36 augmentative support trainings sessions and trained 292 people. Community Support Services' Augmentative Supports is a direct service response that works side-by-side with a provider's employees to remediate crisis-related and situational complexities through short-term interventions. Augmentative supports emphasizes modeling, coaching, training, and implementation of activities designed by Community Support Services clinical lead staff.

To ensure that the Department continues to meet the requirements of Evaluation Criteria 75, Community Support Services will continue to provide targeted mentoring and coaching. The *Jensen* Implementation Office will verify the number of targeted mentoring and coaching sessions Community Support Services provided and the number of people trained.

¹³ With the implementation of Minnesota law, Chapter 245D in January 2014, and the positive supports rule Minnesota Rule 9544 in August 2015, all providers must use positive supports in place of restrictive interventions. The law prohibits the use of punitive practices and procedures, such as seclusion and restraint. Legislation allows for an 11-month transition period, if needed, to end prohibited practices.

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Evaluation Criteria 76

An additional fourteen (14) full time equivalent positions were added between February 2011 and June 30, 2011, configured as follows: Two (2) Behavior Analyst 3 positions; One (1) Community Senior Specialist 3; (2) Behavior Analyst 1; Five (5) Social Worker Specialist positions; and Five (5) Behavior Management Assistants.

State of Compliance

The Department has met the requirements of Evaluation Criteria 76 prior to the adoption of this Comprehensive Plan of Action. To ensure that the Department continues to meet the requirements of Evaluation Criteria 76, Community Support Services will continue to maintain locations of teams and staff to provide effective supports, and will continue to hire or train staff as needed.

Evaluation Criteria 77

None of the identified positions are vacant.

State of Compliance

The Department has met the requirements of Evaluation Criteria 77. Community Support Services has not hired any new Behavior Analyst 3 positions (or equivalents) since December 14, 2014.

To ensure that the Department continues to meet the requirements of Evaluation Criteria 77, Community Support Services monitors staffing on an ongoing basis. The Department will continue to hire and retain qualified individuals for/in these positions. If there is turnover, other staff fill in where possible to maintain services.

Community Support Services works actively with the Department's Human Resources unit to post and quickly fill vacant positions with qualified candidates. In general, Minnesota Management & Budget (MMB) processes applications for employment within the Department.

Evaluation Criteria 78

Staff conducting the Functional Behavioral Assessment or writing or reviewing Behavior Plans shall do so under the supervision of a Behavior Analyst who has the requisite educational background, experience, and credentials recognized by national associations such as the Association of Professional Behavior Analysts. Any supervisor will co-sign the plan and will be responsible for the plan and its implementation.

State of Compliance

NADD (National Association for the Dually Diagnosed) has accepted Michael Scharr's (Community Support Services Supervisor responsible for reviewing behavior plans) application for NADD-CC Certification. Mr. Scharr has obtained further direction regarding the work sample requirements.

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Mr. Scharr continues to develop his sample clinical portfolio. Mr. Scharr will submit to the NADD-CC accreditation committee his clinical portfolio, for their review, by December 1, 2015.¹⁴

Settlement Agreement Section X.B. System Wide Improvements – Olmstead Plan (EC 79)

Evaluation Criteria 79

The State and the Department developed a proposed Olmstead Plan, and will implement the Plan in accordance with the Court's orders. The Plan will be comprehensive and will use measurable goals to increase the number of people with disabilities receiving services that best meet their individual needs and in the "Most Integrated Setting," and which is consistent and in accord with the U.S. Supreme Court's decision in Olmstead v. L.C., 527 U.S. 581 (1999). The Olmstead Plan is addressed in Part 3 of this Comprehensive Plan of Action.

State of Compliance

On September 29, 2015, U.S. District Judge Donovan Frank approved the Olmstead Plan submitted in August 2015. The *Jensen* Implementation Office and other areas of the Department will continue to maintain interaction with the Olmstead Implementation Office for implementation and compliance with the Olmstead Plan.

Settlement Agreement Section X.C. System Wide Improvements – Rule 40 Modernization (EC 80)

Evaluation Criteria 80

Rule 40 modernization is addressed in Part 2 of this Comprehensive Plan of Action. DHS will not seek a waiver of Rule 40 (or its successor) for a Facility.

State of Compliance

The Department has met the requirements of Evaluation Criteria 80. The Department has not, and will not, seek a waiver of the Positive Supports Rule for a facility.

¹⁴ Mr. Scharr submitted his work sample to NADD on December 10, 2015

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Settlement Agreement Section X.D. System Wide Improvements – Minnesota Security Hospital (EC 81 – 84)

Evaluation Criteria 81

The State takes best efforts to ensure that there are no transfers to or placements at the Minnesota Security Hospital of persons committed solely as a person with a developmental disability.

State of Compliance

On May 19, 2015, Minnesota Security Hospital admitted a person (W1) committed solely as a person with a developmental disability.

Since an earlier discharge from the Minnesota Security Hospital, W1 had been involved in a number of significant incidents that included aggression towards staff, property destruction, attempts to harm himself, and elopement. At least three staff had sustained injuries that required immediate medical attention; additionally, three staff resigned in the first four weeks due to concerns for their safety.

W1 had attempted to elope on four occasions, with the last attempt on May 8, 2015, resulting in W1 getting into a neighbor's bus parked on their property with the keys in it, trying to start it, and breaking windows in the bus. When staff attempted to intervene, W1 seriously assaulted a staff member. Staff called the police who took W1 into custody.

It was the clinical opinion of the Department experts that the Minnesota Security Hospital provided the best option for evaluation and transition planning for the person at that time. The Department notified the Court Monitor, plaintiff's counsel and consultants on May 14, 2015, of the pending admission. The Department also filed a motion with the Court to address the admission. The Department has engaged and involved W1 in the transition planning to the extent recommended by his clinicians.

Since admission, the Department has actively pursued transition planning. The Department is providing the court monitor, plaintiff's counsel, and consultants with weekly updates on the status of the transition for this person, and is actively collaborating with the consultants and involved county officials.

As part of W1's transition planning, the Department obtained expert consultation and evaluation by Dr. Gary LaVigna, Clinical Director at the Institute for Applied Behavior Analysis. Dr. LaVigna completed his evaluation the week of June 15, 2015 and submitted W1's Functional Behavioral Assessment to the Department on July 24, 2015. The Department sent a copy of the assessment to the court monitor, plaintiff's counsel, and consultants. The Department also contracted with Betsy Gadbois to update W1's person-centered plan. Ms. Gadbois is the Director of Training and Life Planning at Lutheran Social Service of Minnesota. Ms. Gadbois completed the updated person-centered plan to the Department on September 1, 2015.

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Exploration of community-based options began in June 2015. During this reporting period, the Department and the County of Financial Responsibility (CFR) explored many in state and out-of-state options. The CFR also published a Request for Information specifically for this person. Only one provider responded and, after an initial meeting with the CFR, they declined to be involved. The Department then offered a partnership for home searching through the "Whatever It Takes" Grant. Efforts to find or create a suitable home and program for W1 continued throughout and beyond this reporting period.¹⁵

During this reporting period, the Department has provided timely communications to county attorneys and state courts responsible for commitments, and to all county directors and case managers, concerning commitments to Minnesota Security Hospital of persons committed with a sole diagnosis of developmental disabilities.

The Department will continue best efforts to identify and overcome obstacles to continued compliance. One of the biggest challenges to transitioning residents of Minnesota Security Hospital and Anoka Metro Regional Treatment Center back to their community is community capacity. Once the person is committed to the commissioner, some county case managers have reported that they feel that it is no longer their responsibility to secure placement options for that person. There is also a heavy dependence on Minnesota State Operated Community Services (MSOCS) to create placement options. Additionally, providers are apprehensive about taking persons with challenging behaviors. Recent changes in Minnesota law, Chapter 245D and Minnesota Rule 9544 (Positive Supports Rule)¹⁶, have caused some providers to be very selective in who they serve. Providers have told county case managers they cannot risk the liability that comes with serving certain persons.

Identification of situations that could put people at risk of admission to Minnesota Security Hospital or Anoka Metro Regional Treatment Center should happen as early as possible. If the Department can provide supports early enough, a diversion from admission may be possible. As part of the Single Point of Entry pilot project, the Department is tracking persons with developmental disabilities who are nearing a crisis; however, as the Department improves its ability to identify persons in need of crisis services, it will need additional dedicated resources to support diversion activities, possibly including mobile teams and other crisis services. Improvement to the diversionary process could include establishing an improved county engagement process from the beginning. The Department

¹⁵ In January 2016, the Department obtained a home and the transition to the new home is ongoing. Details of the transition, including staffing, training and program specifics will be included in future reports

¹⁶ With the implementation of Minnesota law, Chapter 245D in January 2014, and the positive supports rule Minnesota Rule 9544 in August 2015, all providers must use positive supports in place of restrictive interventions. The law prohibits the use of punitive practices and procedures, such as seclusion and restraint. Legislation allows for an 11-month transition period, if needed, to end prohibited practices.

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would expect the county to be engaged in proactive measures to obtain appropriate services for their person rather than state commitment to settings that are more restrictive.

The Department will work to incorporate Olmstead work plan objective to address challenges relating to community capacity and crisis services. The Department will provide detail of these activities in future reports.

Evaluation Criteria 82

There are no transfers or placements of persons committed solely as a person with a developmental disability to the Minnesota Security Hospital (subject to the exceptions in the provision).

State of Compliance

On May 19, 2015, Minnesota Security Hospital admitted a person (W1) committed solely as a person with a developmental disability. W1's situation is explained in detail in Evaluation Criteria 81. During this reporting period, the Department has provided timely communications to county attorneys and state courts responsible for commitments, and to all county directors and case managers, concerning commitments to Minnesota Security Hospital of person committed with a sole diagnosis of developmental disability.

See also Evaluation Criteria 81

Evaluation Criteria 83

There has been no change in commitment status of any person originally committed solely as a person with a developmental disability without proper notice to that person's parent and/or guardian and a full hearing before the appropriate adjudicative body.

State of Compliance

The Department has met the requirements of Evaluation Criteria 83. There has been no change in commitment status of any person originally committed solely as a person with a developmental disability, without proper notice to that person's parent and/or guardian and a full hearing before the appropriate adjudicative body.

The Department's Central Pre-Admissions reviews all potential admissions and transfers to ensure compliance with the *Jensen Settlement Agreement* and to ensure the most appropriate placement for the person.

Evaluation Criteria 84

All persons presently confined at Minnesota Security Hospital who were committed solely as a person with a developmental disability and who were not admitted with other forms of commitment or predatory offender status set forth in paragraph 1, above, are transferred by the Department to the most integrated setting consistent with Olmstead v. L.C. , 527 U.S. 581 (1999).

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State of Compliance

The Department has met the requirements of Evaluation Criteria 84. Prior to the adoption date of this Comprehensive Plan of Action, any person confined at Minnesota Security Hospital who was committed solely as a person with a developmental disability and who was not admitted with other forms of commitment or predatory offender status had been transferred to a community setting.

There are currently five *Jensen* class members at Minnesota Security Hospital:

- One person is under a Mentally Ill and Dangerous Commitment
- Three people are solely committed as a person with a developmental disability, with Predatory Offender status
- One person is under a Mentally Ill Commitment, with Predatory Offender status

To ensure the Department continues to meet the requirements of Evaluation Criteria 84, the Department will continue to monitor potential admissions and transfers so there are no people committed to Minnesota Security Hospital solely as a person with a developmental disability, without other forms of commitment or predatory offender status.

Settlement Agreement Section X.E. System Wide Improvements – Anoka Metro Regional Treatment Center (EC 85)

Evaluation Criteria 85

All AMRTC residents committed solely as a person with a developmental disability and who do not have an acute psychiatric condition are transferred from AMRTC to the most integrated setting consistent with Olmstead v. L.C. , 527 U.S. 581 (1999).

State of Compliance

There were two people with developmental disability diagnoses at Anoka Metro Regional Treatment Center because of psychiatric episodes referenced in the last Compliance Report. Anoka Metro Regional Treatment Center discharged the person admitted October 23, 2014, on June 6, 2015, to a community setting. The person admitted on September 10, 2014, has a unique commitment from Hennepin County. This person was committed as a person with a developmental disability on November 6, 2014, with an indefinite expiration date, and was committed as a person with mental illness on November 6, 2014; with an expiration date of November 12, 2015, to stabilize his/her psychiatric conditions.

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The county case manager has identified a REM Foster Care home in Bloomington and an anticipated discharge is the week of October 26, 2015.¹⁷ REM staff recently met with the person to review the treatment and care in preparation for discharge.

During this reporting period, the Department has provided timely communications to county attorneys and state courts responsible for commitments, and to all county directors and case managers, concerning commitments to Anoka Metro Regional Treatment Center of person committed with a sole diagnosis of developmental disabilities.

The Department will continue best efforts to identify and overcome obstacles to continued compliance. One of the biggest challenges to transitioning residents of Minnesota Security Hospital and Anoka Metro Regional Treatment Center back to their community is community capacity. Once the person is committed to the commissioner, many county case managers feel that they do not have options to secure placement for that person. Some of the people have exhausted housing options prior to commitment. Additionally, providers are apprehensive to take persons with challenging behaviors. In some cases, providers feel that it could make the other people that they would be living with vulnerable. Recent changes in Minnesota Statutes, Chapter 245D and Minnesota Rule 9544 (Positive Supports Rule), have also caused some providers to be selective in who they serve. Providers have told county case managers they cannot risk the liability that comes with serving certain people and the Department should consider how they could offer providers some protection from licensing if they are doing what they can to support someone.

Identification of situations that could put people at risk of admission to Minnesota Security Hospital or Anoka Metro Regional Treatment Center should happen as early as possible. If the Department can provide supports early enough, a diversion from admission may be possible. As part of the Single Point of Entry pilot project, the Department is tracking persons with developmental disabilities who are nearing a crisis; however, as the Department improves its ability to identify persons in need of crisis services, it will need additional dedicated resources to support diversion activities, possibly including mobile teams and other crisis services. Improvement to the diversionary process could include establishing an improved county engagement process from the beginning. The Department would expect the county to be engage in proactive measures to obtain appropriate services for their person rather than state commitment to settings that are more restrictive.

The Department will work to incorporate Olmstead work plan objective to address challenges relating to community capacity and crisis services. The Department will provide detail of these activities in future reports.

¹⁷ Anoka Metro Regional Treatment Center discharged the person on 10/28/15 to REM Homes in Bloomington.

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Settlement Agreement Section X.F. System Wide Improvements – Language (EC 86 - 87)

Evaluation Criteria 86

The term "mental retardation" has been replaced with "developmental disabilities" in any DHS policy, bulletin, website, brochure, or other publication. DHS will continue to communicate to local government agencies, counties, tribes, courts and providers that they should adhere to this standard.

State of Compliance

The Department has met criteria for Evaluation Criteria 86. The Department has replaced outdated terminology when identified in any Department policy, bulletin, website, brochure, or other publication. The Department has included a Terminology disclaimer statement¹⁸ to the Department's webpages and the Department's Bulletin Template.

Evaluation Criteria 87

DHS drafted and submitted a bill for the Minnesota Legislature that will require the replacement of terms such as "insane," "mentally incompetent," "mental deficiency," and other similar inappropriate terms that appear in Minnesota statutes and rules.

State of Compliance

The Department has met criteria for EC 87. Changes to statute and rule language took place in 2013, and those remain in place. The 2014 Minnesota Legislature made additional changes to state statute and rule mostly changing the word "deficient."

Closure of MSHS-Cambridge and Replacement with Community Homes and Services (EC 88 – 96)

Evaluation Criteria 88

MSHS-Cambridge will be closed. There will be community treatment homes dispersed geographically. Any need for additional community treatment homes beyond four will be determined based on a specific assessment of need based on client needs with regard to such criteria as those at risk for institutionalization or re-institutionalization, behavioral or other challenges, multiple hospitalizations or other transfers within the system, serious reported injuries, repeated failed placements, or other challenges identified in previous monitoring or interventions.

State of Compliance

¹⁸ Terminology Disclaimer - The terminology used to describe people with disabilities has changed over time. The Minnesota Department of Human Services ("Department") supports the use of "People First" language. Although outmoded and offensive terms might be found within documents on the Department's website, the Department does not endorse these terms.

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The Department has met criteria for Evaluation Criteria 88. On Aug. 29, 2014, the last person transitioned out of the Minnesota-Specialty Health System-Cambridge and the Department closed the facility as part of the terms of the *Jensen Settlement Agreement*. Minnesota Specialty Health System (MSHS)-Cambridge transitioned to Minnesota Life Bridge, a community-based residential treatment program (Program) that currently has four homes:

Minnesota Life Bridge includes the following homes:

- Stratton Lake, located at [REDACTED], Isanti, MN 55040 (Isanti County), opened March 2014. Stratton Lake is licensed for four people.
- Brobergs Lake, located at [REDACTED], Cambridge, MN 55008 (Isanti County), opened September 8, 2014. Brobergs Lake is licensed for three people.
- Two additional homes located at [REDACTED], Hastings, MN 55033 (Dakota County) are scheduled to be open in January 2016. One side is licensed for one person; the other side is licensed for two people.

The Department will continue efforts to hire and train new staff as efficiently as possible to ensure all homes are fully staffed.

Evaluation Criteria 89

Staff hired for new positions as well as to fill vacancies, will only be staff who have experience in community based, crisis, behavioral and person-centered services and whose qualifications are consistent with the Settlement Agreement and currently accepted professional standards. Staff reassigned from MSHS-Cambridge will receive additional orientation training and supervision to meet these qualifications within 6 months of reassignment.

State of Compliance

The Department has met criteria for Evaluation Criteria 89. Staff reassigned to Minnesota Life Bridge community homes from MSHS-Cambridge received additional orientation training and supervision to meet the listed qualifications within six months of reassignment. All staff receive individual site-specific training and continue to progress toward Annual training expectations. The Minnesota Life Bridge training year runs from March 12 to March 11. The 2015/2016 annual training schedule is in progress.

Minnesota Life Bridge Person-Centered Plan Facilitator, Mike Sherman, started work at Minnesota Life Bridge on April 22, 2015. Mr. Sherman has assumed responsibility for Person Centered Plans and associated staff training at Minnesota Life Bridge. Mr. Sherman has made himself available for trainings in other Direct Care and Treatment programs.

Evaluation Criteria 90

Provide integrated vocational options including, for example, customized employment.

State of Compliance

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The Department has met criteria for Evaluation Criteria 90. The initial focus when a person begins receiving Minnesota Life Bridge services is to address the crisis or emergent situation that brought them to Minnesota Life Bridge. Once the person is able to get past that, they continue to develop and enrich their person-centered plans and transition planning.

Based on the person-centered work completed with each person served by Minnesota Life Bridge, opportunities for developing or exercising vocational skills are explored that meet the expressed interests of that person. Sometimes this entails learning or brushing up on pre-vocational skills and activities (for example, what an employer expects of an employee - hygiene, clothing, work hours). This could also entail skills assessments and discussions to better clarify educational or vocational needs. Based on the person's needs and interests there could be are other individualized activities

To ensure that the Department continues to meet criteria for Evaluation Criteria 90, Minnesota Life Bridge will continue offering opportunities to people to explore and develop vocational skills and experiences. Minnesota Life Bridge will continue to assist people with vocational assessments, training, seeking / attaining resources, applying for and maintaining employment.

Evaluation Criteria 91

All requirements in this Comprehensive Plan of Action are fully met for each individual served in the area of Person-Centered Planning.

State of Compliance

The Department has met criteria for Evaluation Criteria 91. The process to fully meet all requirements in the area of person-centered planning is in place and operational. Revising and updating plans is an ongoing process. The Department will continue to review and revise policies, practices, forms, and templates for person-centered planning as necessary to comply with the Comprehensive Plan of Action. Training and technical assistance on person centered planning is available through Minnesota Life Bridge, Disability Services Division, Community Support Services, *Jensen* Implementation Office , the College of Direct Supports, and other sources.

Evaluation Criteria 92

All requirements in this Comprehensive Plan of Action are fully met for each individual served in the area of Transition Planning.

State of Compliance

The Department has met criteria for Evaluation Criteria 92. The process to fully meet all requirements in the area of transition planning is in place and operational. Revising and updating plans is an ongoing process. The Department will continue to review and revise policies, practices, forms, and templates for transition planning as necessary to comply with the Comprehensive Plan of Action. The Department will maintain best practices in supporting people to take meaningful steps towards the lives they envision for themselves.

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Evaluation Criteria 93

DHS will provide augmentative service supports, consultation, mobile teams, and training to those supporting the person. DHS will create stronger diversion supports through appropriate staffing and comprehensive data analysis.

State of Compliance

The Department has met criteria for Evaluation Criteria 93. The Department continues to provide and strengthen augmentative, diversionary, consultative, training, and mobile supports

The Department does provide "mobile teams," although the Department is not yet augmenting private staff as envisioned in the Department's Bulletin # 14-76-01, Transition of Minnesota Specialty Health System (MSHS) – Cambridge to Minnesota Life Bridge: Admission and Discharge Processes, Transition Planning and Community Mobile Support Services issued April 29, 2014. There are not separate, distinct mobile teams; instead, Minnesota Life Bridge deploys current staff as needed.

Minnesota Life Bridge and Community Support Services have provided mobile supports to persons and providers. Dr. Tim Moore, together with Minnesota Life Bridge clinicians, have provided mobile support not only to persons living in their home in the community but also for persons receiving services at Anoka Metro Regional Treatment Center; Minnesota Security Hospital; Mental Health and Substance Abuse Treatment Services, Community Support Services cases. Dr. Tim Moore, together with Minnesota Life Bridge clinicians, have provided mobile support to persons in the Therapeutic Follow-up cohort, and those persons referred to Minnesota Life Bridge admissions.

Another example is the deployment of State Operated Services staff to assist with a short-term crisis placement of a person in a crisis home until a permanent community home is ready.

The Department continues best efforts to identify and overcome obstacles for continued compliance. One potential challenge to continued compliance is staffing/ labor management issues. The Department needs to determine if positions used on mobile teams require any special considerations with respect to contract obligations. Based on initial discussions with the Department's Human Resources division, it appears that MAPE employee positions are the best fit for this position category. There are also potential legal concerns that the Department needs to explore, including liability within another provider's site.

Funding is not currently a significant barrier as initial positions have been allocated in the Minnesota Life Bridge Fiscal Year 2016 budget; however, positions will need to have on-going funding.

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Evaluation Criteria 94

All sites, programs and services established or utilized under this Comprehensive Plan of Action shall be licensed as required by state law.

State of Compliance

The Department has met criteria for Evaluation Criteria 94. Minnesota Life Bridge will continue to maintain appropriate licensure for all community settings by reapplying annually or as otherwise required. The *Jensen* Implementation Office will verify licenses are timely and appropriate by reviewing the DHS Licensing Lookup web page and storing a copy of the licenses in the *Jensen* SharePoint site.

Services funded through Medical Assistance must be from providers registered with the Department.

Evaluation Criteria 95

Residents currently at MSHS-Cambridge transition to permanent community homes.

State of Compliance

The Department has met criteria for Evaluation Criteria 95. The final person transitioned to a permanent community home from MSHS-Cambridge in August 2014.

Evaluation Criteria 96

Residents currently at MSHS-Cambridge transition to permanent community homes.

State of Compliance

The Department has met criteria for Evaluation Criteria 96. The final person transitioned from MSHS-Cambridge transitioned to a permanent community home in August 2014.

Minnesota Life Bridge provided competency-based training for all staff in successor facilities and programs, and on individual plan updates for all persons receiving support. These trainings were fully suited for community life and both emphasize and reflect choice, self-determination, and other person-centered practices and values.

Minnesota Life Bridge continues to provide competency-based training for staff in all Successor facilities and programs, and on plan updates for all persons receiving support. Minnesota Life Bridge provides required annual trainings on a rotating schedule throughout the year.

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Therapeutic Follow-Up of Class Members and Clients Discharged from METO/MSHS-Cambridge (EC 98)

Evaluation Criteria 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-institutionalization and other transfers to more restrictive settings, and to maintain the most integrated setting for those individuals..

State of Compliance

The Successful Life Project (SLP) continues to support members of the therapeutic follow-up group including members at risk of losing their homes, at risk of transfer to settings that are more restrictive, and those transitioning to new homes. The Successful Life Project team becomes involved with class members, per the prioritization guidelines noted in DHS Bulletin 15-76-01 - Successful Life Project:

- Persons known to be in crisis, as referred by:
 - Citizens
 - Court Monitor
 - Minnesota Department of Health
 - Minnesota Department of Human Services
 - Family members and/or guardians
 - Lead agency representatives
 - Minnesota Office of the Ombudsman for Mental Health and Developmental Disabilities
 - Plaintiff Class Counsel
 - Providers
- Persons previously supported by METO or MSHS-Cambridge who were or are considered to be high profile persons as determined by the results of the Successful Life Project initial assessment, and subsequent assessments
 - Persons who were admitted to METO or MSHS-Cambridge multiple times
 - Persons who had the longest tenures of residence in METO or MSHS-Cambridge
 - Persons discharged from METO or MSHS-Cambridge for the longest time without return
 - Persons most recently discharged from MSHS-Cambridge

Information about the Successful Life Project is also available on-line in the Community-based Services Manual

As of September 30, 2015, the Successful Life Project completed 263 initial assessments as part of Phase I. Fifty-five assessments are still pending, for the following reasons. Fifteen people (or their legal representative) declined to participate in the initial assessment; 17 people were unable to be located/contacted; 23 people (and legal representatives where applicable) could not be reached.

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In May 2015, project staff made follow-up phone calls to the 15 people (or their legal representative) who declined to participate in the initial assessment to encourage their participation. None of the people (or legal representatives) who declined to participate in the initial assessment during Phase I had changed their mind and consented to participate.

The Successful Life Project received assistance from the Office of Special Investigations for the 19 people project staff were unable to locate during Phase I. During this reporting period, the Office of Special Investigations was able to locate two people; Successful Life Project has contacted both these people and have completed their assessments leaving 17 (19-2) people that project staff are still unable to locate.

In May 2015, follow up letters and a copy of the Successful Life Project Bulletin were mailed to the case managers and the 26 people (and legal representatives where applicable) who could not be reached to schedule initial assessments during Phase I. As a result, three additional people have completed their initial assessments leaving 23 (26 -3) people who could not be reached.

The second phase of evaluations began March 16, 2015, with Successful Life Project continuing to focus on the priority list for scheduling contacts and assessments. Based on experience and feedback from the class members' teams, Successful Life Project has adjusted the tool and created a revised version referred to as the Positive Behavior Support - System Evaluation Tool (PBS-SET). Successful Life Project works in an individualized manner to evaluate the person's situation and to support the unique needs and circumstances for each person, in collaboration with support teams (including county case managers, guardians, providers, and the Department resources including Disability Services Division and Community Support Services. The Successful Life Project and Community Support Services are continuously improving coordination and efficiency with teams on which they are both providing support.

There have been a couple of situations in which either the person or the family/ guardian have asked to be removed from the person-centered planning process. After discussion, they better understood what person-centered planning is about, and the value of person-centered planning, and have been willing to go forward with the assessment.

Successful Life Project Priority Tracking

The Successful Life Project Priority Tracking list determines who is included in the second phase of assessments at that time. The number of people on the priority-tracking list is in constant flux as circumstances and needs can change quickly, and Successful Life Project can address some needs relatively quickly while others take more time to resolve. The timetable for project staff to work with each individual priority case is determined individually, and is a function of the unique events and circumstances in their lives. The Successful Life Project team tracks status and next steps for priority cases on a weekly basis in an electronic tracking system.

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As of September 30, 2015, there were 43 people on the priority-tracking list. Successful Life Project provides priority-level support to persons based on their situation and needs identified either in the initial assessment or in subsequent referral or identification, and the prioritization criteria. During Successful Life Project Priority weekly meetings, project staff review the priority list to identify any corrections needed, updates to action plan and/or additional supports needed as well as any class member discussed at the Minnesota Life Bridge Diversion meeting

E1 Criminal Case Status Update

In response to a report to the State of rape on or about August 6, 2014, the alleged perpetrator was arrested on August 13, 2014. St. Louis County charged the alleged perpetrator with Criminal Sexual Conduct in the 1st Degree and the person made a first court appearance on August 15, 2014. The court gave the alleged perpetrator a Rule 20 evaluation and on February 24, 2015, the person was found by the court to be incompetent.

The Department's Compliance Division followed up with Karl Sundquist, prosecutor for St. Louis County, on April 21, 2015, and provided a brief training on the *Jensen Settlement Agreement* with Mr. Sundquist explaining who the Court Monitor is and the Department's obligations under the *Jensen Settlement Agreement* for Class Members. Mr. Sundquist informed the Department that the charges against the alleged perpetrator are stayed due to the finding of incompetence and that the alleged perpetrator is 73 years old, and is not anticipated to be found competent due to a diagnosis of dementia.

Successful Life Project Staffing

The Successful Life Project staffing currently includes a clinical coordinator, a registered nurse, and four certified behavioral analysts (BA3). Successful Life Project currently has one certified behavioral analyst vacancy.

Successful Life Project is in the process of hiring one behavioral analyst certified position, in pursuit of a full complement of five board certified behavioral analysts (BCBA) staff. Successful Life Project conducted one interview for the certified behavioral analyst's position during this reporting period but chose not to hire the person. The Department will repost the certified behavioral analysts position in November or December 2015.

Amber Maki has filled the Successful Life Project Clinical Coordinator position. Amber Maki will assume responsibilities of the Successful Life Project Clinical Coordinator following the hiring and training of the two open certified behavioral analyst's positions in the Minnesota Life Bridge residential program. Until that time, Ms. Maki will continue to provide behavior analyst support for Minnesota Life Bridge and Dr. Tim Moore will continue directing the day-to-day operations of Successful Life Project.

The Successful Life Project RN continues to interface with each Board Certified Behavior Analyst on a weekly basis to ensure communication of important information from medical evaluations.

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Modernization of Rule 40 (EC 99 - 104)

Evaluation Criteria 99

The scope of the Rule 40 modernization shall include all individuals with developmental disabilities served in programs, settings and services licensed by the Department, regardless of the setting in which they live or the services which they receive. As stated in the Settlement Agreement, the modernization of Rule 40 which will be adopted under this Comprehensive Plan of Action shall reflect current best practices, including, but not limited to the use of positive and social behavioral supports, and the development of placement plans consistent with the principle of the 'most integrated setting' and 'person centered planning, and development of an 'Olmstead Plan'' consistent with the U.S. Supreme Court's decision in Olmstead v. L.C., 527 U.S. 582 (1999).

State of Compliance

The Department has met criteria for Evaluation Criteria 99. The Department published the Notice of Adoption of Minnesota Rules, Chapter 9544 in the in the August 17, 2015 edition of the Minnesota State Register (40 SR 179), completing the promulgation of the rule. The rule became effective on August 31, 2015.

Evaluation Criteria 100

Within the scope set forth above, the rule-making process initiated by the Department of Human Services pursuant to the Settlement Agreement, the Department shall by December 31, 2014 propose a new rule in accordance with this Comprehensive Plan of Action ("Proposed Rule"). This deadline may be extended for good cause shown upon application to the Court not later than 20 days prior to the deadline.

Should the Department of Human Services believe that it requires additional rule-making authority to satisfy the requirements of this Plan, in order to apply the rule to all providers covered by Rule 40 and the scope of this Plan, the Department will seek an amendments to statutes in the 2014 Minnesota Legislative session to ensure that the scope of the Rule 40 modernization stated above is fulfilled and will apply to all of the facilities and services to persons with developmental disabilities governed by Rule 40. Any proposed amendment(s) are subject to the notice and comment process under EC __ below. If legislative approval for the requested authority is not obtained in the 2014 Minnesota Legislative session, the Court may use its authority to ensure that the Adopted Rule will apply consistent with the scope set forth in EC 99. By August 31, 2015, the Department of Human Services shall adopt a new rule to modernize Rule 40 ("Adopted Rule"). This deadline may be extended for good cause shown upon application to the Court not later than 60 days prior to the deadline.

State of Compliance

The Department completed the initial rule draft development phase in December 2014, culminating in the preparation of a Revisor-certified proposed rule and the Statement of Need and Reasonableness (SONAR) that supports it. The Department published the Notice of Hearing in the December 29, 2014 and January 12, 2015 State Registers.

The Office of Administrative Hearing held the rule hearing on February 23, 2015. The comment period remained open until March 16, 2015 at 4:30 pm., and the rebuttal period remained open until March 23, 2015 at 4:30 p.m. The administrative law judge issued a report approving the rule on April

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22, 2015. However, the administrative law judge disapproved the cost determination required under Minnesota Statute §14.127. The effect of this disapproval is that providers with fewer than 50 full-time employees would be able to claim exemption from the rule.

The Department requested and received a waiver from the Governor of the application of Minnesota Statute §14.127, subd. 3 (regarding the cost determination disapproved by the administrative law judge). The expiration date of the waiver is August 30, 2016. The Department intends to seek legislative approval of the rule, as contemplated by the statute, prior to expiration of the waiver.

The Department published the Notice of Adoption of Minnesota Rules, Chapter 9544 in the in the August 17, 2015 edition of the *Minnesota State Register* (40 SR 179), completing the promulgation of the rule. The rule became effective on August 31, 2015.

Evaluation Criteria 101

The Proposed Rule shall address the temporary use and tapering of carefully monitored individual medical restraints for self-injurious behavior while non-restraint positive behavior supports are implemented under professional supervision.

In formulating the Proposed Rule, and any other methods or tools of implementation, the Department shall carefully consider the recommendations of Dr. Fredda Brown, whose consultation on the Rule 40 modernization the Department requested with regard to matters on which the Advisory Committee had not reached consensus. The Department shall document the results of this review.

State of Compliance

The Department has met the requirements of Evaluation Criteria 101. The Department carefully considered Dr. Fredda Brown's recommendations in formulating the draft rule language. In late June 2014, the Department provided the draft rule to the Court Monitor, Plaintiff's class counsel, the Ombudsman for Mental Health and Developmental Disabilities, and the Executive Director of the Governor's Council on Developmental Disabilities. The Department met with Dr. Brown on August 20, 2014 and incorporated her input in the draft rule.

The rule became effective August 31, 2015. The subject of the first paragraph of this Evaluation Criterion is addressed in Minnesota Administrative Rules §9544.0130.

Evaluation Criteria 102

The Proposed Rule shall be consistent with and incorporate, to the extent possible in rule, the Rule 40 Advisory Committee's consensus recommendations stated in its Recommendations on Best Practices and Modernization of Rule 40 (Final Version - July 2013). During the rule-making process, the Department shall advocate that the final rule be fully consistent with the Rule 40 Advisory Committee's recommendations. The phrase "to the extent possible in rule" above is intended to recognize that some elements of the Committee's recommendations are not susceptible to the format of rules and, therefore, will be implemented by the Department through policies, bulletins, contract provisions, and by other means.

Not later than (30) days prior to public notice of the content of the Proposed Rule, the Department shall provide a draft of the rule to Plaintiffs' Class Counsel, the Court Monitor, the Ombudsman for Mental Health and Developmental

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Disabilities, and the Executive Director of the Governor's Council on Developmental Disabilities for review and comment and, if requested by any of these entities, for discussion in a conference prior to public notice of the content of the Proposed Rule. The Department will share with these entities the intended final content not later than five (5) days prior to the public notice.

State of Compliance

The Department has met the requirements of Evaluation Criteria 102. The Department followed the Minnesota Administrative Procedures Act throughout the rulemaking process.

In late June 2014, the Department provided the draft rule to the Court Monitor, Plaintiff's Class Counsel, the Ombudsman for Mental Health and Developmental Disabilities, and the Executive Director of the Governor's Council on Developmental Disabilities. Multiple drafts of the proposed rules were shared with and input accepted from the Plaintiffs' Class Counsel, the Court Monitor, the Ombudsman for Mental Health and Developmental Disabilities, and the Executive Director of the Governor's Council on Developmental Disabilities throughout the rulemaking process.

The public hearing on the draft rules was held on February 23, 2015. The comment period remained open until March 16, 2015 at 4:30 pm., and the rebuttal period remained open until March 23, 2015 at 4:30 p.m. The administrative law judge issued a report approving the rule on April 22, 2015.

Evaluation Criteria 103

Within thirty (30) days of the promulgation of the Adopted Rule, Plaintiffs' Class Counsel, the Court Monitor, the Ombudsman for Mental Health and Developmental Disabilities, or the Executive Director of the Governor's Council on Developmental Disabilities may suggest to the Department of Human Services and/or to the Olmstead Implementation Office that there are elements in the Rule 40 Advisory Committee Recommendations on Best Practices and Modernization of Rule 40 (Final Version - July 2013) which have not been addressed, or have not adequately or properly been addressed in the Adopted Rule. In that event, those elements shall be considered within the process for modifications of the Olmstead Plan. The State shall address these suggestions through Olmstead Plan sub-cabinet and the Olmstead Implementation Office. Unresolved issues may be presented to the Court for resolution by any of the above, and will be resolved by the Court.

State of Compliance

The Department is currently working with the Ombudsman for Mental Health and Developmental Disabilities and the Executive Director of the Governor's Council on Developmental Disabilities to address the elements identified by them under Evaluation Criteria 103. On September 8, 2015, the Office of Ombudsman for Mental Health and Developmental Disabilities and the Governor's Council on Developmental Disabilities submitted a letter to the Department with their comments on Rule 40 Advisory Committee recommendations they feel were not included in the final version of the Positive Supports Rule. Plaintiff's Counsel joined in the position of the consultants.

The Department met with the Office of Ombudsman for Mental Health and Developmental Disabilities and the Governor's Council on Developmental Disabilities and will continue discussions

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regarding the elements that may not be adequately or properly addressed. The Department will be providing a working document by mid-February 2016 that all parties can use to see if and how an element is addressed. Once an element is identified as not adequately or properly addressed, the Department, in conjunction with the Office of Ombudsman for Mental Health and Developmental Disabilities and the Governor's Council on Developmental Disabilities, will determine how to proceed to address them.

Evaluation Criteria 104

The Department of Human Services shall implement the Adopted Rule and take other steps to implement the recommendations of the Rule 40 Advisory Committee.

State of Compliance

The Department published the Notice of Adoption of the Positive Supports Rule in the State Register on August 17, 2015, completing the promulgation of the rule. The rule became effective on August 31, 2015. The Department provided webinars and information on the internet to inform the public about implementation of the Rule.

The Department continues its Positive Supports Community of Practice; the contract with the Research and Training Center on Community Living Institute on Community Integration, University of Minnesota (ICI) to provide person centered training and cohort training to increase community capacity; and the ongoing development and refinement of a positive supports manual and website.

The Department will continue discussions with Office of Ombudsman for Mental Health and Developmental Disabilities and the Governor's Council on Developmental Disabilities on Rule 40 Advisory Committee recommendations and implementation of the Positive Supports Rule.

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Court Monitor Evaluation Criteria Compliance Concerns

Evaluation Criteria 9 and 38

Verification completed by the *Jensen* Implementation Office as follow-up to concerns of non-compliance for Evaluation Criteria 9 and 38 included a review of Minnesota Life Bridge Incident Review Committee Meeting minutes for April and July 2015. The Department will provide detail of these activities in future reports.

Jensen Implementation Office met with Department MN.IT in September 2015 to request a technology solution to allow the *Jensen* Implementation Office to receive electronic copies of incident reports of class members and members of the therapeutic follow-up group within 24 hours of submission. A change request is currently in queue for assignment to Minnesota Information Technology staff.

Beginning October 2015, incident trend graphing will be included in the Minnesota Life Bridge Incident Review Committee Meeting minutes

Evaluation Criteria 47,48,49,50 (choice), 51 (alternatives) and 52

The *Jensen* Implementation Office completed desk audits of the transition plans for the three people who transitioned from Minnesota Life Bridge during this reporting period. This tool used was adapted for Minnesota from the Person-Centered Positive Behavior Support Plan (PC-PBS) Report Scoring Criteria & Checklist, developed by the Kansas Institute for Positive Behavior Support. Desk audits scores for these plans were 94% (D1) 95% (S1) and 94 % (S2). Transition plans for these three people all include the elements identified in the Comprehensive Plan of Action.

Evaluation Criteria 64

Minnesota Life Bridge mission has always been consistent with the *Jensen* Settlement Agreement and has consistently functioned as a transitional adult foster care home as required by the *Jensen* Settlement Agreement and EC 64. "Successful Transition to a Successful Life" appropriately describes the intent and purpose of Minnesota Life Bridge. While providing services to persons with complex needs is a multi-faceted undertaking and subject to continuous improvement, Minnesota Life Bridge's mission is clear and consistent with the *Jensen* Settlement Agreement and Comprehensive Plan of Action.

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Single Point of Entry

Launched February 19, 2015, the Single Point of Entry is a Department-piloted process to improve the agency's ability to respond to requests for assistance in supporting people with disabilities in crisis. The Single Point of Entry is part of a larger Disability Services Division /Direct Care and Treatment Process Improvement Project that the Department initiated in January 2015 that includes a number of process improvement projects.

The Single Point of Entry Pilot focuses on coordinating the Department efforts for the target population, defined as persons with developmental or intellectual disabilities in crisis and at risk of losing their current placement. The numbers below represent the number of unduplicated referrals for people entered into the Single Point of Entry, during this reporting period, as identified by the target population:

- Feb: 6
- March: 12
- April: 9
- May: 21
- June: 15
- July: 6
- August: 4
- September: 23

On August 17, 2015, the Department launched a subset of CareManager (also referred to as Community Care), as a part of the longer-term (sustainable) solution for the Single Point of Entry. CareManager is a web-based application (software) developed by Netsmart for care coordination/care management

The Single Point of Entry process now involves over 90 Department staff from Disability Services Division, Community Support Services, Central Pre-Admission, Minnesota Life Bridge, *Jensen* Implementation Office and Successful Life Project using CareManager to support the care coordination efforts for people in the target population. The increase in staff supporting care coordination with CareManager is resulting in a decrease in duplication of efforts and time for individual client issues to be triaged and assigned to staff for resolution

Challenges and Barriers to Further Implementation

Technology Barriers

Feedback received from Department staff is that the implemented subset of CareManager requires staff to spend approximately one hour of data entry per new client. This is due in part because staff need to access other systems (such as MMIS) to obtain important information that they were not able

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to gather in the initial contact (either the caller does not know or the request comes through a fax to the Department and requires research upon receipt). Additionally, the current subset data fields are "spread out" within the CareManager platform, which requires staff to click into multiple screens before getting to the place the data should be entered. Lastly, some of the data is being stored in customized fields or assessments in CareManager because those elements are not currently accessible to staff with the Department's current contract. Implementation of the full CareManager application would eliminate a vast majority of the need for such customization and make it easier and more logical for staff to navigate CareManager

Avatar is another care coordination application that is used by Direct Care and Treatment. Although Avatar and CareManager are both Netsmart applications, currently CareManager and Avatar do not interface, or talk to each other. There is software available (CareConnect) that would allow data to be transferred between CareManager and Avatar. The duplication of work efforts, particularly as it relates to common fields such as demographics, would be marginalized if not eliminated, if these two systems could talk.

Developing reports has also been difficult due to the implementation of the subset and data housed in customized fields, multiple tables within the software product, or stored in a non-optimal location. Staff spend time putting together reports, and when data is extracted, it is not always in the format/look they need or want.

Full implementation of CareManager will eliminate or minimize the need to continue storing data in other databases, although full implementation has not yet been approved.

Staffing Barriers

The Department's Central Pre-Admission plays an integral role with the Single Point of Entry process. They are the "front door" to the Single Point of Entry process and are the initial decision makers of whether or not an individual's event "qualifies" them for the Single Point of Entry process. Central Pre-Admission is able to manage the work with current target population, as the population is quite small.

Currently staff from Minnesota Life Bridge, Disability Services Division and Community Support Services join in a daily conference call to discuss new cases in CareManager. The Department is working towards having the Navigators (Katy Mattson, Barb Trytten and Jerry Rondeau) take over leading this call and triaging the cases thereby allowing the Triage Team (Jason Flint, Steve Dahl and Tim Moore) to focus on program management and capacity building.

Cross administration funding

Staff from across the Department S use and support CareManager. Currently there is no cross-divisional funding options to financially support a model like this leaving the annual subscription

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cost and the full implementation vulnerable to division funding siloes and likely leaving one division or another to foot the whole cost.

Community Capacity

Physical places for persons in the target population will be a challenge to realizing the full benefits of the Single Point of Entry process. Once entered into the Single Point of Entry process, a group of experts from Community Support Services, Disability Services Division, and Minnesota Life Bridge discuss cases daily to determine which work area can take the lead on following the case through to what is hopefully a successful placement. Often times, many staff hours are spent looking for any sort of options for placement. Staff are being creative and resourceful in this effort, but still encounter barriers regarding capacity, resulting in some individuals who remain in an inappropriate setting (e.g. jail or the emergency room) and on waiting lists. The Department will work to incorporate the Olmstead work plan objectives to address challenges regarding community capacity. The Department will provide detail of these activities in future reports.

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Evaluation Criteria Index

EC #	Evaluation Criteria	Section Referenced
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 [sic] 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.	Settlement Agreement Section IV. METO Closure
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.	Settlement Agreement Section IV. METO Closure
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.	Settlement Agreement Section IV. METO Closure
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 .	Settlement Agreement Section IV. METO Closure
2.1	<p>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>	Settlement Agreement Section IV. METO Closure

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EC #	Evaluation Criteria	Section Referenced
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 .	Settlement Agreement Section IV. METO Closure
2.3	The person-centered plan will directly inform the development of the individualized program plan (or Coordinated Service Support Plan). Such plans will build on the strengths and interests of the individual, and moving towards increasing relationships, roles, and community integration in these areas of life.	Settlement Agreement Section IV. METO Closure
2.4	The person-centered plan will directly inform the development of a Positive Behavior Support Plan. Life direction, talents, and interests will be capitalized on in any planned intervention. Each behavior support plan will include teaching strategies to increase competencies and build on the strengths of the person.	Settlement Agreement Section IV. METO Closure
2.5	Each behavior support plan will be unique to each individual. The use of token economies and contingent reinforcement will be used sparingly, not for punishment, and only when weighed again the potential risks to the person's image and competencies in terms of exercising personal autonomy.	Settlement Agreement Section IV. METO Closure
2.6	Each behavior support plan will include a summary of the person's history and life experiences, the difficulties and problems the person is experiencing, past strategies and results, and a comprehensive functional behavioral analysis, from which strategies are derived.	Settlement Agreement Section IV. METO Closure
2.7	Each Functional Behavioral Analysis will include a: a. Review of records for psychological, health and medical factors which may influence behaviors; b. Assessment of the person's likes and dislikes (events / activities / objects / people); c. Interviews with individual, caregivers and team members for their hypotheses regarding the causes of the behavior; d. Systematic observation of the occurrence of the identified behavior for an accurate definition/description of the frequency, duration and intensity; e. Review of the history of the behavior and previous interventions, if available; f. Systematic observation and analysis of the events that immediately precede each instance of the identified behavior; g. Systematic observation and analysis of the consequences following the identified behavior; h. Analysis of functions that these behaviors serve for the person; i. Analysis of the settings in which the behavior occurs most/least frequently. Factors to consider include the physical setting, the social setting, the activities occurring and available, degree of participation and interest,	Settlement Agreement Section IV. METO Closure

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EC #	Evaluation Criteria	Section Referenced
	the nature of teaching, schedule, routines, the interactions between the individual and others, degree of choice and control, the amount and quality of social interaction, etc. j. Synthesis and formulation of all the above information into an hypothesis regarding the underlying causes and/or function of the targeted behavior. or shall be consistent with the standards of the Association of Positive Behavior Supports, Standards of Practice for Positive Behavior Supports (http://apbs.org).	
2.8	Each positive behavior support plan will include: 1. Understanding how and what the individual is communicating; 2. Understanding the impact of others' presence, voice, tone, words, actions and gestures; 3. Supporting the individual in communicating choices and wishes; 4. Supporting workers to change their behavior when it has a detrimental impact; 5. Temporarily avoiding situations which are too difficult or too uncomfortable for the person; 6. Enabling the individual to exercise as much control and decision making as possible over day-to-day routines; 7. Assisting the individual to increase control over life activities and environment; 8. Teaching the person coping, communication and emotional self-regulation skills; 9. Anticipating situations that will be challenging, and assisting the individual to cope or calm; 10. Offering an abundance of positive activities, physical exercise, and relaxation, and 11. As best as possible, modifying the environment to remove stressors (such as noise, light, etc.).	Settlement Agreement Section IV. METO Closure
2.9	The format used for Positive Behavioral Support Plans will be revised to include each of the above areas, and will be used consistently.	Settlement Agreement Section IV. METO Closure
3.	Facilities serve only "Minnesotans who have developmental disabilities and exhibit severe behaviors which present a risk to public safety."	Settlement Agreement Section IV. METO Closure
3.1	3.1 All referrals for admission will be reviewed by the admissions coordinator to assure that they are persons with a Developmental Disability and meet the criteria of exhibiting severe behaviors and present a risk to public safety taking into account court ordered admissions.	Settlement Agreement Section IV. METO Closure
4.	Facilities notify legal representatives of residents and/or family to the extent permitted by law, at least annually, of their opportunity to comment in writing, by e-mail, and in person, on the operation of the Facility.	Settlement Agreement Section IV. METO Closure

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EC #	Evaluation Criteria	Section Referenced
4.1	Initiate annual written survey process to all legal representatives of residents and/or family to the extent permitted by law whose individual of interest was served within the past year which solicits input on the operation of the Facility. Each survey will be in the relevant language, and will include notification that comments on Facility operations may be offered in person or by mail or telephone by contacting Facility director or designee.	Settlement Agreement Section IV. METO Closure
4.2	Aggregate data will be collected from survey responses received from each survey process. Facility staff will develop an action plan to outline changes which will be made as a result of survey data, and implement those changes.	Settlement Agreement Section IV. METO Closure
5.	The State/DHS immediately and permanently discontinues all the prohibited restraints and techniques.	Settlement Agreement Section V.A. Prohibited Techniques – Restraint
5.1	DHS will issue a memorandum to all Facility staff confirming the Department's commitment to provide services and supports which are consistent with best practices including: 1) Providing individuals with a safe and therapeutic environment which includes positive behavioral supports and training on behavioral alternatives; 2) Recognizing that restraints are not a therapeutic intervention; 3) An immediate prohibition on prone restraint, mechanical restraints, seclusion and time out; 4) The Facilities' goal towards immediate reduction and eventual elimination of restraint use whenever possible; and 5) Restraint use is permitted only when the client's conduct poses an imminent risk of physical harm to self or others and less restrictive strategies would not achieve safety; client refusal to receive / participate in treatment shall not constitute an emergency.	Settlement Agreement Section V.A. Prohibited Techniques – Restraint
5.2	The Facility shall remove "mechanical restraint," "prone restraint," "prone hold" and all other prohibited techniques from all current Facility forms and protocols.	Settlement Agreement Section V.A. Prohibited Techniques – Restraint
5.3	Facility policy(s) on Emergency Interventions shall minimally include: 1) The type of emergency interventions permitted and prohibited; 2) The protocol for administering emergency interventions; 3) The authorization and supervision needed for each emergency intervention; 4) The medical monitoring required during and after each restraint; 5) The review requirements of each emergency intervention (administrative, internal and external); 6) The data collection and aggregate data review of restrictive intervention usage. The Facility policy shall separate and clearly delineate "therapeutic interventions" from "emergency restraint / interventions." Current Facility policy/procedures shall be revised to comply with these requirements.	Settlement Agreement Section V.A. Prohibited Techniques – Restraint

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EC #	Evaluation Criteria	Section Referenced
5.4	All Facility staff members have received competency-based training on the policy / procedures identified immediately above.	<u>Settlement Agreement Section V.A. Prohibited Techniques – Restraint</u>
5.5	Competency-based training on the policy / procedures identified above has been incorporated into Facility orientation and annual training curricula.	<u>Settlement Agreement Section V.A. Prohibited Techniques – Restraint</u>
6.	The State/DHS has not used any of the prohibited restraints and techniques.	<u>Settlement Agreement Section V.A. Prohibited Techniques – Restraint</u>
6.1	Facility Staff will specify on Restraint Form which emergency technique was employed, verifying that a prohibited technique was not used.	<u>Settlement Agreement Section V.A. Prohibited Techniques – Restraint</u>
6.2	The supervisor will review each restraint with staff by the end of his/her shift, verifying that: 1) The threat of imminent harm warranted the emergency intervention, 2) The intervention was an approved technique and no suspicion exists that a prohibited technique was used; and 3) When applicable, what immediate corrective measures / administrative actions need to be taken.	<u>Settlement Agreement Section V.A. Prohibited Techniques – Restraint</u>
6.3	Any/all use of prohibited techniques, e.g., prone restraints, mechanical restraints, seclusion, timeout, etc., will be investigated as potential allegations of abuse. Facility Staff are required to immediately report any suspected use of prohibited restraints / techniques to their supervisor.)	<u>Settlement Agreement Section V.A. Prohibited Techniques – Restraint</u>
6.4	Reporting and review forms/procedures are revised, and utilized, to incorporate the above 6.1, 6.2 and 6.3.	<u>Settlement Agreement Section V.A. Prohibited Techniques – Restraint</u>
7.	Medical restraint, and psychotropic/ neuroleptic medication have not been administered to residents for punishment, in lieu of habilitation, training, behavior support plans, for staff convenience or as behavior modification.	<u>Settlement Agreement Section V.A. Prohibited Techniques – Restraint</u>
7.1	Facility policy shall specifically forbid the use of restrictive interventions, including medical restraints and/or psychotropic/neuroleptic medication for: the purposes of punishment; in lieu of habilitation, training, or behavior support plans; for staff convenience; or as a behavior modification.	<u>Settlement Agreement Section V.A. Prohibited Techniques – Restraint</u>
7.2	Facility policy will specify medication management protocols consistent with best practices in the support and treatment of individuals with cognitive and/or mental health disabilities.	<u>Settlement Agreement Section V.A. Prohibited Techniques – Restraint</u>

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EC #	Evaluation Criteria	Section Referenced
8.	Restraints are used only in an emergency.	<u>Settlement Agreement Section V.B. Prohibited Techniques – Policy</u>
8.1	Facility Staff will clearly document, on the restraint form, the circumstances leading up to the restraint and what imminent risk of harm precipitated the application of the restraint. This shall include what antecedent behaviors were present, what de-escalation and intervention strategies were employed and their outcomes.	<u>Settlement Agreement Section V.B. Prohibited Techniques – Policy</u>
8.2	In the event a restraint was used in the absence of imminent risk of harm, staff will be immediately retrained on Facility policies addressing the "Therapeutic Interventions and Emergency Use of Personal Safety Techniques" policy with such retraining being entered into their training file.	<u>Settlement Agreement Section V.B. Prohibited Techniques – Policy</u>
9.	The Policy (Settlement Agreement Att. A, as it may be revised after court approval, dissemination and staff training) was followed in each instance of manual restraint	<u>Settlement Agreement Section V.B. Prohibited Techniques – Policy</u>
9.1	As part of its data management processes, the Facility will collect, review and analyze information related to staff's adherence to restraint policy.	<u>Settlement Agreement Section V.B. Prohibited Techniques – Policy</u>
10.	There were no instances of prone restraint, chemical restraint, seclusion or time out. [Seclusion: evaluated under Sec. V.C. Chemical restraint: evaluated under Sec. V.D.]	<u>Settlement Agreement Section V.B. Prohibited Techniques – Policy</u>
10.1	Facility policy shall clearly identify prone restraint, chemical restraint, seclusion and timeout as "prohibited."	<u>Settlement Agreement Section V.B. Prohibited Techniques – Policy</u>
11.	There were zero instances of the use of Seclusion. Facility policy shall specify that the use of seclusion is prohibited.	<u>Settlement Agreement Section V.C. Prohibited Techniques – Seclusion and Time Out</u>
12.	There were zero instances of the use of Room Time Out from Positive Reinforcement. Facility policy shall specify that the use of time out from positive reinforcement is prohibited.	<u>Settlement Agreement Section V.C. Prohibited Techniques – Seclusion and Time Out</u>

EC #	Evaluation Criteria	Section Referenced
13.	There were zero instances of drug / medication use to manage resident behavior OR to restrain freedom of movement. Facility policy specifies the Facility shall not use chemical restraint. A chemical restraint is the administration of a drug or medication when it is used as a restriction to manage the resident's behavior or restrict the resident's freedom of movement and is not a standard treatment or dosage for the resident's condition.	<u>Settlement Agreement Section V.D. Prohibited Techniques – Chemical Restraint</u>
14.	There were zero instances of PRN orders (standing orders) of drug/ medication used to manage behavior or restrict freedom of movement. Facility policy specifies that PRN/ standing order medications are prohibited from being used to manage resident behavior or restrict one's freedom of movement.	<u>Settlement Agreement Section V.D. Prohibited Techniques – Chemical Restraint</u>
15.	There is a protocol to contact a qualified Third Party Expert.	<u>Settlement Agreement Section V.E. Prohibited Techniques – 3rd Party Expert</u>
15.1	Facility policy stipulates that a Third Party Expert will be consulted within 30 minutes of the emergency's onset.	<u>Settlement Agreement Section V.E. Prohibited Techniques – 3rd Party Expert</u>
16.	There is a list of at least 5 Experts pre-approved by Plaintiffs & Defendants. In the absence of this list, the DHS Medical or designee shall be contacted.	<u>Settlement Agreement Section V.E. Prohibited Techniques – 3rd Party Expert</u>
17.	DHS has paid the Experts for the consultations.	<u>Settlement Agreement Section V.E. Prohibited Techniques – 3rd Party Expert</u>
18.	A listed Expert has been contacted in each instance of emergency use of restraint.	<u>Settlement Agreement Section V.E. Prohibited Techniques – 3rd Party Expert</u>
19.	Each consultation occurred no later than 30 minutes after presentation of the emergency.	<u>Settlement Agreement Section V.E. Prohibited Techniques – 3rd Party Expert</u>
20.	Each use of restraint was an "emergency."	<u>Settlement Agreement Section V.E. Prohibited Techniques – 3rd Party Expert</u>
21.	The consultation with the Expert was to obtain professional assistance to abate the emergency condition, including the use of positive behavioral supports techniques, safety techniques, and other best practices. If the Expert was not available, see V.F. below.	<u>Settlement Agreement Section V.E. Prohibited Techniques – 3rd Party Expert</u>

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EC #	Evaluation Criteria	Section Referenced
21.1	On the restraint form, Facility staff will identify the Third Party or other expert and will document all recommendations given by the consultant, techniques, and the efficacy and outcomes of such interventions. When reviewing the restraint form, 24 hours post-restraint, Designated Coordinator will verify that Facility staff contacted the medical officer within 30 minutes of the emergency's onset.	<u>Settlement Agreement Section V.E.</u> <u>Prohibited Techniques – 3rd Party Expert</u>
22.	The responsible Facility supervisor contacted the DHS medical officer on call not later than 30 minutes after the emergency restraint use began.	<u>Settlement Agreement Section V.E.</u> <u>Prohibited Techniques – 3rd Party Expert</u>
23.1 [sic]	On the Restraint Form, the Facility supervisor will document both the date/time that the emergency restraint began and the date/time s/he contacted the designated medical officer.	<u>Settlement Agreement Section V.E.</u> <u>Prohibited Techniques – 3rd Party Expert</u>
23.	The medical officer assessed the situation, suggested strategies for de-escalating the situation, and approved of, or discontinued the use of restraint.	<u>Settlement Agreement Section V.E.</u> <u>Prohibited Techniques – 3rd Party Expert</u>
23.1	The Facility supervisor will document on the restraint form and in the resident's record, the medical officer's de-escalation strategies, the outcome of those strategies used, and whether approval was needed and/or given for continued restraint use.	<u>Settlement Agreement Section V.E.</u> <u>Prohibited Techniques – 3rd Party Expert</u>
24.	The consultation with the medical officer was documented in the resident's medical record.	<u>Settlement Agreement Section V.E.</u> <u>Prohibited Techniques – 3rd Party Expert</u>
24.1	When conducting his/her post-restraint review, the Designated Coordinator will verify that the supervisor contacted the medical officer within 30 minutes of the emergency restraint and documented the details in the resident's medical record.	<u>Settlement Agreement Section V.E.</u> <u>Prohibited Techniques – 3rd Party Expert</u>
25.	All allegations were fully investigated and conclusions were reached. Individuals conducting investigations will not have a direct or indirect line of supervision over the alleged perpetrators; the DHS Office of the Inspector General satisfies this requirement. Individuals conducting investigations, interviews and/or writing investigative reports will receive competency-based training in best practices for conducting abuse / neglect investigations involving individuals with cognitive and/or mental health disabilities and interviewing.	<u>Settlement Agreement Section V.G.</u> <u>Prohibited Techniques – Zero Tolerance for Abuse and Neglect</u>
25.1	DHS employees having responsibility for investigative duties will receive 8 hours of continuing education or in-service training each year specific to investigative practices.	<u>Settlement Agreement Section V.G.</u> <u>Prohibited Techniques – Zero Tolerance for Abuse and Neglect</u>

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EC #	Evaluation Criteria	Section Referenced
25.2	Each investigation will undergo a quality review by a peer or supervisor who has, at minimum been trained in the requirements set forth in this Implementation Plan.	<u>Settlement Agreement Section V.G. Prohibited Techniques – Zero Tolerance for Abuse and Neglect</u>
25.3	The Department will maintain an electronic data management system, to track all information relevant to abuse/neglect investigations. This data management system will minimally include: 1) Incident date; 2) Report date; 3) Incident location; 4) Provider; 5) Allegation type; 6) Alleged victim; 7) Alleged perpetrator(s); 8) Injuries sustained; 9) Assigned investigator; 10) Date investigative report is completed; 11) Substantiation status; 12) Systemic issues identified and the corrective measures taken to resolve such issue; 13) Whether or not the case was referred to the county attorney; and 14) Whether or not charges were filed; and 15) Outcome of charges.	<u>Settlement Agreement Section V.G. Prohibited Techniques – Zero Tolerance for Abuse and Neglect</u>
25.4	Allegations substantiated by DHS Licensing (Office of Inspector General) will be documented in the client's Facility record.	<u>Settlement Agreement Section V.G. Prohibited Techniques – Zero Tolerance for Abuse and Neglect</u>
26.	All staff members found to have committed abuse or neglect were disciplined pursuant to DHS policies and collective bargaining agreement, if applicable.	<u>Settlement Agreement Section V.G. Prohibited Techniques – Zero Tolerance for Abuse and Neglect</u>
26.1	All substantiated allegations of staff abuse or neglect are referred to Human Resources for human resources action in accordance with the definitions set forth under the Vulnerable Adults Act. All perpetrators will be disciplined in accordance with DHS policies and procedures and Union Contracts.	<u>Settlement Agreement Section V.G. Prohibited Techniques – Zero Tolerance for Abuse and Neglect</u>
27.	Where appropriate, the State referred matters of suspected abuse or neglect to the county attorney for criminal prosecution.	<u>Settlement Agreement Section V.G. Prohibited Techniques – Zero Tolerance for Abuse and Neglect</u>
27.1	All allegations of abuse or neglect related to care of residents of a Facility will be submitted to the common entry point to determine whether or not the case will be referred to the county attorney for criminal prosecution.	<u>Settlement Agreement Section V.G. Prohibited Techniques – Zero Tolerance for Abuse and Neglect</u>

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EC #	Evaluation Criteria	Section Referenced
28.	Form 31032 (or its successor) was fully completed whenever use was made of manual restraint.	<u>Settlement Agreement Section VI.A.</u> <u>Restraint Reporting & MGMT – Form</u> <u>31032</u>
28.1	When reviewing the restraint form 24 hours post-restraint, the Designated Coordinator will verify that Form 31032 (or any successor) was completed timely, accurately and in its entirety.	<u>Settlement Agreement Section VI.A.</u> <u>Restraint Reporting & MGMT – Form</u> <u>31032</u>
29.	For each use, Form 31032 (or its successor) was timely completed by the end of the shift.	<u>Settlement Agreement Section VI.A.</u> <u>Restraint Reporting & MGMT – Form</u> <u>31032</u>
29.1	When reviewing the restraint form 24 hours post-restraint, the Designated Coordinator will verify that Form 31032 (or any successor) was completed timely, accurately and in its entirety.	<u>Settlement Agreement Section VI.A.</u> <u>Restraint Reporting & MGMT – Form</u> <u>31032</u>
30.	Each Form 31032 (or its successor) indicates that no prohibited restraint was used.	<u>Settlement Agreement Section VI.A.</u> <u>Restraint Reporting & MGMT – Form</u> <u>31032</u>
30.1	Staff will indicate what type of restraint was used on Form 31032 (or any successor).	<u>Settlement Agreement Section VI.A.</u> <u>Restraint Reporting & MGMT – Form</u> <u>31032</u>
30.2	When reviewing the restraint form, 24 hours or one business day post-restraint, the Designated Coordinator will verify that no prohibited techniques were used.	<u>Settlement Agreement Section VI.A.</u> <u>Restraint Reporting & MGMT – Form</u> <u>31032</u>
31.	Within 24 hours, and no later than one business day, Form 31032 (or its successor) in each instance was submitted to the Office of Health Facility Complaints.	<u>Settlement Agreement Section VI.B.</u> <u>Restraint Reporting & MGMT –</u> <u>Notifications</u>

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EC #	Evaluation Criteria	Section Referenced
31.1	Form 31032 (or its successor) is sent to the Office of Health Facility Complaints within 24 hours or no later than one business day.	<u>Settlement Agreement Section VI.B.</u> <u>Restraint Reporting & MGMT –</u> <u>Notifications</u>
32.	Within 24 hours, and no later than one business day, Form 31032 (or its successor) in each instance was submitted to the Ombudsman for MH & DD	<u>Settlement Agreement Section VI.B.</u> <u>Restraint Reporting & MGMT –</u> <u>Notifications</u>
32.1	Form 31032 (or its successor) is sent to the Ombudsman for MH & DD within 24 hours or no later than one business day.	<u>Settlement Agreement Section VI.B.</u> <u>Restraint Reporting & MGMT –</u> <u>Notifications</u>
33.	Within 24 hours, and no later than one business day, Form 31032 (or its successor) in each instance was submitted to the DHS Licensing	<u>Settlement Agreement Section VI.B.</u> <u>Restraint Reporting & MGMT –</u> <u>Notifications</u>
33.1	Form 31032 (or its successor) is sent to DHS Licensing within 24 hours or no later than one business day.	<u>Settlement Agreement Section VI.B.</u> <u>Restraint Reporting & MGMT –</u> <u>Notifications</u>
34.	Within 24 hours, and no later than one business day, Form 31032 (or its successor) in each instance was submitted to the Court Monitor and to the DHS Internal Reviewer	<u>Settlement Agreement Section VI.B.</u> <u>Restraint Reporting & MGMT –</u> <u>Notifications</u>
34.1	Form 31032 (or its successor) is sent to the Court Monitor and to the DHS Internal Reviewer within 24 hours or no later than one business day.	<u>Settlement Agreement Section VI.B.</u> <u>Restraint Reporting & MGMT –</u> <u>Notifications</u>
35.	Within 24 hours, and no later than one business day, Form 31032 (or its successor) in each instance was submitted to the legal representative and/or family to the extent permitted by law.	<u>Settlement Agreement Section VI.B.</u> <u>Restraint Reporting & MGMT –</u> <u>Notifications</u>

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EC #	Evaluation Criteria	Section Referenced
35.1	Form 31032 (or its successor) is sent to the legal representative, and/or family to the extent permitted by law, within 24 hours or no later than one business day.	<u>Settlement Agreement Section VI.B.</u> <u>Restraint Reporting & MGMT –</u> <u>Notifications</u>
36.	Within 24 hours, and no later than one business day, Form 31032 (or its successor) in each instance was submitted to the Case manager.	<u>Settlement Agreement Section VI.B.</u> <u>Restraint Reporting & MGMT –</u> <u>Notifications</u>
36.1	Form 31032 (or its successor) is sent to the case manager within 24 hours or no later than one business day.	<u>Settlement Agreement Section VI.B.</u> <u>Restraint Reporting & MGMT –</u> <u>Notifications</u>
37.	Within 24 hours, and no later than one business day, Form 31032 (or its successor) in each instance was submitted to the Plaintiffs' Counsel.	<u>Settlement Agreement Section VI.B.</u> <u>Restraint Reporting & MGMT –</u> <u>Notifications</u>
37.1	Form 31032 (or its successor) is sent to the Plaintiffs' Counsel within 24 hours or no later than one business day.	<u>Settlement Agreement Section VI.B.</u> <u>Restraint Reporting & MGMT –</u> <u>Notifications</u>
38.	Other reports, investigations, analyses and follow up were made in each case of restraint use.	<u>Settlement Agreement Section VI.C.</u> <u>Restraint Responses Are Not To Replace</u> <u>Other Incident Reporting, Investigation,</u> <u>Analysis & Follow-Up</u>
38.1	The Designated Coordinator will review each client incident, injury and/or restraint use within 1 business day of its occurrence to: 1) Evaluate the immediate health and safety of the individual(s) involved; 2) Ensure no prohibited techniques were used; 3) Ensure all documentation and notifications were properly made; and 4) Determine what, if any, immediate measures must be taken.	<u>Settlement Agreement Section VI.C.</u> <u>Restraint Responses Are Not To Replace</u> <u>Other Incident Reporting, Investigation,</u> <u>Analysis & Follow-Up</u>

EC #	Evaluation Criteria	Section Referenced
38.2	The Designated Coordinator will convene an Interdisciplinary Team (IDT) meeting within 5 business days of a restraint to: 1) Review the circumstances surrounding the behavioral emergency; 2) Determine what factors likely contributed to the behavioral emergency, i.e. life event, environmental, relational discord, etc.; 3) Identify what therapeutic interventions, including individualized strategies, were employed and why they were unsuccessful in de-escalating the situation; 4) Review and assess the efficacy of the individual's PBS plan, making changes as needed; 5) Determine if trends/patterns can be identified with this individual or this living area; and 6) Take all corrective measures deemed necessary, indicating what actions are being taken, the party responsible for taking such actions, the date by which these actions will be taken, and how the efficacy of such actions will be monitored. Documentation of the IDT meeting, including attendees, review and actions taken will be thoroughly documented in the individual's record.	<u>Settlement Agreement Section VI.C. Restraint Responses Are Not To Replace Other Incident Reporting, Investigation, Analysis & Follow-Up</u>
38.3	When changes to an individual's program plan and/or PBS plan are recommended during the IDT's restraint review, the Designated Coordinator will ensure that such changes are made within 2 business days of the IDT meeting related to the restraint use.	<u>Settlement Agreement Section VI.C. Restraint Responses Are Not To Replace Other Incident Reporting, Investigation, Analysis & Follow-Up</u>
38.4	A facility-based Positive Behavioral Supports Review (PBSR), comprised of both behavioral analysts and non-clinical staff, will be established and maintained for the purposes of: 1) Reviewing all positive behavioral support plans to ensure they adhere to current best practice; 2) Approving and monitoring the efficacy of all positive behavioral support plans; 3) Reviewing the use of any restrictive and/or emergency interventions, i.e. restraints, 911 calls, etc. The PBSR Committee will meet on a monthly basis.	<u>Settlement Agreement Section VI.C. Restraint Responses Are Not To Replace Other Incident Reporting, Investigation, Analysis & Follow-Up</u>
38.5	The PBSR committee will maintain meeting minutes detailing attendance (person/title); chairperson; individual and aggregate data review; issues and trends identified (individual and systemic); corrective measures to be taken; dates by which such corrective measures are to be completed; responsible parties, and follow-up of the previous month's action plans.	<u>Settlement Agreement Section VI.C. Restraint Responses Are Not To Replace Other Incident Reporting, Investigation, Analysis & Follow-Up</u>
38.6	The Department will identify and address any trends or patterns from investigations.	<u>Settlement Agreement Section VI.C. Restraint Responses Are Not To Replace Other Incident Reporting, Investigation, Analysis & Follow-Up</u>

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EC #	Evaluation Criteria	Section Referenced
39.	In consultation with the Court Monitor during the duration of the Court's jurisdiction, DHS designates one employee as Internal Reviewer whose duties include a focus on monitoring the use of, and on elimination of restraints.	Settlement Agreement Section VII.B. Restraint Review - Internal Reviewer
40.	The Facility provided Form 31032 (or its successor) to the Internal Reviewer within 24 hours of the use of manual restraint, and no later than one business day.	Settlement Agreement Section VII.B. Restraint Review - Internal Reviewer
40.1	The shift supervisor/administrator on duty will notify the Internal Reviewer of the restraint within 24 hours and no later than one business day. Notification will be made electronically along with the completed Form 31032 (or its successor).	Settlement Agreement Section VII.B. Restraint Review - Internal Reviewer
41.	The Internal Reviewer will consult with staff present and directly involved with each restraint to address: 1) Why/how de-escalation strategies and less restrictive interventions failed to abate the threat of harm; 2) What additional behavioral support strategies may assist the individual; 3) Systemic and individual issues raised by the use of restraint; and 4) the Internal Reviewer will also review Olmstead or other issues arising from or related to, admissions, discharges and other separations from the facility.	Settlement Agreement Section VII.B. Restraint Review - Internal Reviewer
41.1	The Internal Reviewer will consult with staff present and directly involved with each restraint to address: 1) Why/how de-escalation[sic] strategies and less restrictive interventions [sic] failed to abate the threat of harm; 2) What additional behavioral support strategies may assist the individual; 3) Systemic and individual issues raised by the use of restraint; and 4) the Internal Reviewer will also review Olmstead or other issues arising from or related to, admissions, discharges and other separations from the facility.	Settlement Agreement Section VII.B. Restraint Review - Internal Reviewer
42.	On April 23, 2013, the Court appointed the Court Monitor as the External Reviewer, with the consent of Plaintiffs and Defendants. DHS funds the costs of the external reviewer.	Settlement Agreement Section VII.B. Restraint Review - External Reviewer
43.	After providing Plaintiffs' Class Counsel and the Department the opportunity to review and comment on a draft, the External Reviewer issues written quarterly reports informing the Department whether the Facility is in substantial compliance with the Agreement and the incorporated policies, enumerating the factual basis for its conclusions.	Settlement Agreement Section VII.B. Restraint Review - External Reviewer
44.	In conjunction with duties and responsibilities under the Order of July 17, 2012, the Court Monitor reviews and makes judgments on compliance, makes recommendations and offers technical assistance in his discretion, and files quarterly and other reports with the Court. Timing of reports is subject to the Court's needs, results of Monitor's reviews, and to the monitoring plan pursuant to the Order of August 28, 2013.	Settlement Agreement Section VII.B. Restraint Review - External Reviewer

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EC #	Evaluation Criteria	Section Referenced
45.	The following have access to the Facility and its records: The Office of Ombudsman for Mental Health and Developmental Disabilities, The Disability Law Center, and Plaintiffs' Class Counsel.	<u>External Entity and Plaintiffs' Access</u>
45.1	Open access to the Facility, its successors, and their records is given to the Office of Ombudsman-MH/DD, The Disability Law Center and Plaintiffs' Class Counsel.	<u>External Entity and Plaintiffs' Access</u>
46.	The following exercised their access authority: The Office of Ombudsman for Mental Health and Developmental Disabilities, The Disability Law Center, and Plaintiffs' Counsel.	<u>External Entity and Plaintiffs' Access</u>
46.1	The Ombudsman-MH/DD, Disability Law Center and Plaintiffs' counsel have all exercised their authority to access the Facility, its successors, and their records.	<u>External Entity and Plaintiffs' Access</u>
47.	The State undertakes 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. Each individual currently living at the Facility, and all individuals admitted, will be assisted to move towards more integrated community settings. These settings are highly individualized and maximize the opportunity for social and physical integration, given each person's legal standing. In every situation, opportunities to move to a living situation with more freedom, and which is more typical, will be pursued.	<u>Settlement Agreement Section VIII. Transition Planning</u>
47.2	Regarding transition planning for individuals entering more restrictive settings, the tasks under Evaluation Criteria 48 to 53 shall be fulfilled.	<u>Settlement Agreement Section VIII. Transition Planning</u>
48.	The State actively pursues the appropriate discharge of residents and provided them with adequate and appropriate transition plans, protections, supports, and services consistent with such person's individualized needs, in the most integrated setting and to which the individual does not object.	<u>Settlement Agreement Section VIII. Transition Planning</u>
48.1	Each individual currently living at MSHS-Cambridge, and any individuals admitted prior to its closure, will have an appropriate transition plan developed within 30 days of admission in accordance with the individual needs and preference for the most integrated setting possible. (For this purpose "admission" and "commitment" are treated the same.).	<u>Settlement Agreement Section VIII. Transition Planning</u>

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EC #	Evaluation Criteria	Section Referenced
48.2	For individuals who may by law or court order be required to enter more restrictive and less integrated circumstances, such as incarceration in a prison, person-centered planning and transition planning is given the same importance as voluntary admissions. All efforts will be towards preparation and transition, safeguarding, negotiating with facilities, supports while in a facility, and implementing immediate post-facility transition into well-matched supports.	<u>Settlement Agreement Section VIII.</u> <u>Transition Planning</u>
49.	Each resident, the resident's legal representative and/or family to the extent permitted by law, has been 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 (or they) prefer.	<u>Settlement Agreement Section VIII.</u> <u>Transition Planning</u>
49.1	Each individual and/or the individual's family and/or legal representative as desired by the individual or required by guardianship is permitted, actively encouraged, and welcomed to be involved in the individual's person-centered planning and decision making to the greatest extent practicable utilizing whatever communication method the individual prefers and respecting the individual's right to choose the participants. Invitations to all planning and evaluation meetings will be extended. Alternate means of participation will be extended to those who cannot travel or attend, including phone and video conferencing.	<u>Settlement Agreement Section VIII.</u> <u>Transition Planning</u>
49.2	Each individual will be invited and encouraged to participate in and take leadership in the person-centered planning processes when this is possible and desired by the person. In all circumstances, the person-centered planning process will be engaged in for and with all individuals, with the understanding that transition and change will happen, that the people are vulnerable, and may need the alliance and support of other allies to support the process of moving forward. High quality person-centered planning, including the development of person-centered profiles, plans, and transition plans, will not be delayed or minimized by a person's perceived level of readiness to take leadership of the process, or willingness to engage in the process.	<u>Settlement Agreement Section VIII.</u> <u>Transition Planning</u>
50.	To foster each resident's self-determination and independence, the State uses 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.	<u>Settlement Agreement Section VIII.</u> <u>Transition Planning</u>

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EC #	Evaluation Criteria	Section Referenced
50.1	<p>Person-centered planning: 1) Will be started immediately upon meeting the person, before admission if possible; 2) Will be on-going; 3) Will be supported by a team of people who represent the interests of the person, if need be; 4) Without exception, and only if the person objects to the inclusion of specific people, the support team will include willing family members, case managers, current, past and future service workers, and at least one individual who is in a freely-given relationship with the person which is conflict-free. This can include a community advocate, citizen advocate, family member, or other individual who only has the welfare of the individual to consider.</p> <p>If the individual is unable or unwilling to participate, people who know about and care for the individual, with the individual's approval, will still be invited to engage in sharing their perspectives about what that positive future can be and what is needed to bring it about. This process will begin at first contact, with a first person-centered plan drawn up by day 30 after admission or 45 days from approval of this Plan.</p>	<u>Settlement Agreement Section VIII. Transition Planning</u>
50.2	Each Person-Centered Plan will be enriched, altered and moved forward at least every 30 days as the person becomes better known and moves toward a new living situation. As plans for this new living situation emerge, each plan will include all activities relevant for transition to a new living situation, relevant and necessary supports to assure the person will have good success, and protections that need to be in place.	<u>Settlement Agreement Section VIII. Transition Planning</u>
50.3	The information from each Person-Centered Plan will be fully incorporated into each person's transition plan, Positive Behavior Support Plan, goal plans, and service objectives within any Individual Service Plan.	<u>Settlement Agreement Section VIII. Transition Planning</u>
50.4	All plan facilitators will have, or function under the active supervision of a staff person who has, significant experience and background in facilitation, social devaluation and its consequences, and the principles of Normalization / Social Role Valorization, person-centered thinking, and the various and vast array of useful tools and techniques which may be of use for a particular person. Any such supervisor shall co-sign and be responsible for the plan and plan process. In this manner, a thoughtful, authentic, individualized and successful planning process will result in meaningful outcomes. Evidence of use of various, individualized techniques for different individual people will be clear in the development of person -centered plans. (PATH, MAPS, Personal Futures Planning, One Page Profiles, and Helen Sanderson's Person-Centered Thinking, are examples).	<u>Settlement Agreement Section VIII. Transition Planning</u>

EC #	Evaluation Criteria	Section Referenced
50.5	An annual learning and professional development plan which includes the above areas will be developed with and for each facilitator of person-centered processes. It may include reading, research, formal, and informal training, mentoring, and development events. These learning and professional development plans will include a minimum of 25 hours per year of educational activities (formal and informal) focused on person-centered planning, and will be completed as planned. Attendance at professional conferences, in and out of state, will be supported and facilitated.	<u>Settlement Agreement Section VIII.</u> <u>Transition Planning</u>
50.6	Person-Centered Planning will include the intentional development of each support team's understanding and analysis of the individual's particular life experiences and how they have impacted the person. Themes, patterns, potential responses, and lessons should be drawn from this knowledge. Biographical timelines, or other person-centered means to capture histories and understand the person will be conducted for each person, with the collaboration of the person and family, if appropriate.	<u>Settlement Agreement Section VIII.</u> <u>Transition Planning</u>
50.7	The development of a person-centered description or personal profile will be used to develop the initial person-centered plan.	<u>Settlement Agreement Section VIII.</u> <u>Transition Planning</u>
50.8	The formats for the Person-Centered Plan, person-centered description or personal profile will be revised to comply with the content requirements of this CPA. The Individual Program Plan will incorporate the Person-Centered Plan. The Person-Centered Plan will be re-designed to reflect a person-centered approach and style. This will include adding: 1) The focus person's goals, interests and vision for the future; 2) The identification of any actions and plans towards achieving those goals; 3) Support to be provided and by whom; 4) Use of everyday, informal language and avoidance of unnecessary service jargon. Objectives for the Person-Centered Plan will be drawn directly from the person-centered description / profile.	<u>Settlement Agreement Section VIII.</u> <u>Transition Planning</u>
51.	Each resident has been given the opportunity to express a choice regarding preferred activities that contribute to a quality life.	<u>Settlement Agreement Section VIII.</u> <u>Transition Planning</u>
51.1	For each person served at a Facility, the Person-Centered Plan will include preferred activities, areas in which the person wants to learn and grow, relationships to strengthen, and competencies to learn.	<u>Settlement Agreement Section VIII.</u> <u>Transition Planning</u>

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EC #	Evaluation Criteria	Section Referenced
51.2	Frequent, daily opportunities will be built into daily life for each person to engage in meaningful activities that are personalized, individualized, and selected by the person. These will be activities planned with the person, and carried out in an individualized fashion. "House activities" will generally not be consistent with providing individualized, person-centered activities which the person freely chooses to engage in.	<u>Settlement Agreement Section VIII.</u> <u>Transition Planning</u>
52.	It is the State's goal that all residents be served in integrated community settings and services with adequate protections, supports and other necessary resources which are identified as available by service coordination. If an existing setting or service is not identified or available, best efforts will be utilized to create the appropriate setting or service using an individualized service design process.	<u>Settlement Agreement Section VIII.</u> <u>Transition Planning</u>
52.1	Each individual's Person-Centered Plan will embody continuously increasing clarity at each revision/development meeting on what an ideal living situation may look like for the person. These will support and describe "must haves" components which must be in place in any considered situation. This may include living situations which are not offered in existing structured services. It may also be impossible to "show" a person a service that matches their needs, even though they may select that option from several.	<u>Settlement Agreement Section VIII.</u> <u>Transition Planning</u>
52.2	If an existing service/living situation is identified and selected by the individual with assistance from the support team, alterations, enhancements, and additional supports will be added whenever appropriate to ensure robust community supports which meet the essential needs for assistance, structure, and support as outlined in the Person-Centered Plan. "Must haves" identified as in 52.1 are required to be in place.	<u>Settlement Agreement Section VIII.</u> <u>Transition Planning</u>
52.3	If an existing residential service is not identified or available, the appropriate services must be created, using an individualized service design process.	<u>Settlement Agreement Section VIII.</u> <u>Transition Planning</u>
52.4	When a living situation is identified as a possibility, the individual and the support team as appropriate will have multiple opportunities to visit, meet potential house-mates, interview the staff and provider, spend time in the situation, and be given the opportunity to make a choice about the living situation, request program enhancements or adjustments, or decline the option.	<u>Settlement Agreement Section VIII.</u> <u>Transition Planning</u>

EC #	Evaluation Criteria	Section Referenced
52.5	When a discharge into an alternative living situation is agreed upon, the transition plan will be further developed and finalized. This pre-discharge iteration of the transition plan will include not only the sharing of information and documents transfers between providers, 1) An individualized plan to facilitate a smooth move; 2) Assistance to the person to navigate the move with ease, and arrange for safeguarding and transfer of the person's belongings ; 3) Planning for and making purchases for new home, ; 4) Assistance to become familiar with new neighborhood, area, town; 5) Planning for packing and move day ; 6) Personalization of new home; 7) Notification of family and friends ; 8) Post office and utility changes ; 9) Introductions to neighbors; 10) Setting up opportunities to deepen relationships with future housemates; 11) Celebrations, welcoming, and farewells; 12) Designing layout of space, window treatments, etc. These types of considerations are a part of the typical processes that valued adults in our culture when preparing to move, and these and others shall be considered.	<u>Settlement Agreement Section VIII.</u> <u>Transition Planning</u>
52.6	The format for the transition plan will incorporate and provide for address of the elements in 52.5 above.	<u>Settlement Agreement Section VIII.</u> <u>Transition Planning</u>
53.	The provisions under this Transition Planning Section have been implemented in accord with the Olmstead decision.	<u>Settlement Agreement Section VIII.</u> <u>Transition Planning</u>
53.1	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.	<u>Settlement Agreement Section VIII.</u> <u>Transition Planning</u>
53.2	All services provided and planned for, and transitioned into must be adequate, appropriate, and carefully monitored. This need for monitoring will be carefully weighed by each person-centered team and addressed. This includes services at the Facility and new living and working situations into which a person is transitioning.	<u>Settlement Agreement Section VIII.</u> <u>Transition Planning</u>

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53.3	All services provided will include assisting people to have meaningful roles in community life, civic life, relationships, work and career, home, and areas of personal interest. When appropriate, these areas of engagement will be envisioned by the team alongside the individual served, and opportunities will be created for this engagement in everyday life. These roles and engagements will be consistently identified and addressed within the Person-Centered Planning, Transition, and the Positive Behavior Support Plans development processes.	<u>Settlement Agreement Section VIII. Transition Planning</u>
53.4	The above areas of engagement (community life, civic life, relationships, career, home, personal interests) will be included in each Person-Centered Plan as focus areas for planning and related objectives.	<u>Settlement Agreement Section VIII. Transition Planning</u>
54.	Facility treatment staff received training in positive behavioral supports, person-centered approaches, therapeutic interventions, personal safety techniques, crises intervention and post crisis evaluation.	<u>Settlement Agreement Section IX.A. Other Practices at the Facility – Staff Training</u>
54.1	Facility staff in all positions receive annual standardized training in: 1. Therapeutic Interventions 2. Personal safety techniques 3. Medically monitoring restraint 4. Positive Behavior Supports 5. Person-Centered Approaches 6. Crisis Intervention 7. Post-Crisis Evaluation and Assessment	<u>Settlement Agreement Section IX.A. Other Practices at the Facility – Staff Training</u>
54.2	All new or temporary Facility staff in all positions receive standardized pre-service training in: 1. Therapeutic Interventions 2. Personal safety techniques 3. Medically monitoring restraint 4. Positive Behavior Supports 5. Person-Centered Approaches 6. Crisis Intervention 7. Post-Crisis Evaluation and Assessment	<u>Settlement Agreement Section IX.A. Other Practices at the Facility – Staff Training</u>

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54.3	The Department will record, monitor and follow-up with the Facility administration to ensure that all facility treatment staff receive all necessary training including, but not limited to, EC 62-64, below.	<u>Settlement Agreement Section IX.A. Other Practices at the Facility – Staff Training</u>
55	Facility staff training is consistent with applicable best practices, including but not limited to the Association of Positive Behavior Supports, Standards of Practice for Positive Behavior Supports (http://apbs.org). Staff training programs will be competency-based with staff demonstrating current competency in both knowledge and skills.	<u>Settlement Agreement Section IX.A. Other Practices at the Facility – Staff Training</u>
55.1	All Facility staff training programs will be competency-based with staff demonstrating current competency in both knowledge and skills.	<u>Settlement Agreement Section IX.A. Other Practices at the Facility – Staff Training</u>
55.2	Training curricula are developed, based on, and consistent with best practices in: 1) Positive Behavioral Supports; 2) Person-Centered approaches/practices; 3) Therapeutic Intervention Strategies; 4) Personal safety techniques; and 5) Crisis intervention and post crisis evaluation.	<u>Settlement Agreement Section IX.A. Other Practices at the Facility – Staff Training</u>
55.3	Each training program (that is, 1) Positive Behavioral Supports; 2) Person-Centered approaches/practices; 3) Therapeutic Intervention Strategies; 4) Personal Safety techniques; and 5) Crisis intervention & post crisis evaluation), will be evaluated at least annually and revised, if appropriate, to ensure adherence to evidence-based and best practices.	<u>Settlement Agreement Section IX.A. Other Practices at the Facility – Staff Training</u>
55.4	DHS will ensure training programs promote sensitivity awareness surrounding individuals with cognitive and mental health disabilities and how their developmental level, cultural/familial background, history of physical or sexual abuse and prior restraints may affect their reactions during behavioral emergencies.	<u>Settlement Agreement Section IX.A. Other Practices at the Facility – Staff Training</u>
55.5	DHS will ensure that training programs are designed to also develop staff's self-awareness of how their own experiences, perceptions and attitudes affect their response to behavioral issues and emergencies.	<u>Settlement Agreement Section IX.A. Other Practices at the Facility – Staff Training</u>
56.	Facility staff receive the specified number of hours of training: Therapeutic interventions (8 hours); Personal safety techniques (8 hours); Medically monitoring restraint (1 hour).	<u>Settlement Agreement Section IX.A. Other Practices at the Facility – Staff Training</u>
56.1	Competency-based training curriculum is developed which minimally provides 8 hours training in Therapeutic Interventions; Personal Safety Techniques and 1 hour in Medically Monitoring Restraints.	<u>Settlement Agreement Section IX.A. Other Practices at the Facility – Staff Training</u>
56.2	All current employees receive 8 hours of competency-based training on Therapeutic Interventions.	<u>Settlement Agreement Section IX.A. Other Practices at the Facility – Staff Training</u>

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56.3	All current employees receive 8 hours of competency-based training on Personal Safety Techniques.	<u>Settlement Agreement Section IX.A. Other Practices at the Facility – Staff Training</u>
56.4	All current employees receive 1 hour of competency-based training on Medically Monitoring restraints.	<u>Settlement Agreement Section IX.A. Other Practices at the Facility – Staff Training</u>
57.	For each instance of restraint, all Facility staff involved in imposing restraint received all the training in Therapeutic Interventions, Personal Safety Techniques, and Medically Monitoring Restraint.	<u>Settlement Agreement Section IX.A. Other Practices at the Facility – Staff Training</u>
57.1	No staff member is permitted to be assigned to direct support services until having received all required orientation and/or annual in-service training on all elements of EC 56, above.	<u>Settlement Agreement Section IX.A. Other Practices at the Facility – Staff Training</u>
58.	Facility staff receive the specified number of hours of training: Person-centered planning and positive behavior supports (with at least sixteen (16) hours on person-centered thinking / planning): a total 40 hours; Post Crisis Evaluation and Assessment (4 hours).	<u>Settlement Agreement Section IX.B. Other Practices at the Facility – Hours of Training</u>
59.	Residents are permitted unscheduled and scheduled visits with immediate family and/or guardians, at reasonable hours, unless the Interdisciplinary Team (IDT) reasonably determines the visit is contraindicated.	<u>Settlement Agreement Section IX.C. Other Practices at the Facility – Visitor Policy</u>
59.1	Facilitate and allow all individuals to have scheduled and unscheduled visits with immediate family and/or guardians and other visitors if not contraindicated by court order or person-centered plans.	<u>Settlement Agreement Section IX.C. Other Practices at the Facility – Visitor Policy</u>
60.	Visitors are allowed full and unrestricted access to the resident's living areas, including kitchen, living room, social and common areas, bedroom and bathrooms, consistent with all residents' rights to privacy.	<u>Settlement Agreement Section IX.C. Other Practices at the Facility – Visitor Policy</u>
60.1	Facilitate all visitors access to the individual's living areas, including kitchen, living room, social and common areas, bedroom and bathrooms, with attention paid to the right of individual privacy and person-centered plans or court requirements.	<u>Settlement Agreement Section IX.C. Other Practices at the Facility – Visitor Policy</u>
61.	Residents are allowed to visit with immediate family members and/or guardians in private without staff supervision, unless the IDT reasonably determines this is contraindicated.	<u>Settlement Agreement Section IX.C. Other Practices at the Facility – Visitor Policy</u>
61.1	Provide privacy, if desired by the individual, for all individuals when visiting with immediate family members and/or guardians, unless the person-centered plans reasonably determines this is contraindicated or visitation rules are court ordered.	<u>Settlement Agreement Section IX.C. Other Practices at the Facility – Visitor Policy</u>

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62.	There is no marketing, recruitment of clients, or publicity targeted to prospective residents at the Facility.	<u>Settlement Agreement Section IX.D. Other Practices at the Facility – No Inconsistent Publicity</u>
63.	The Facility purpose is clearly stated in a bulletin to state court judges, county directors, social service supervisors and staff, county attorneys and Consumers and Families and Legal Representatives of consumers of Developmental Disabilities services. Any admission will be consistent with the requirements of this bulletin.	<u>Settlement Agreement Section IX.D. Other Practices at the Facility – No Inconsistent Publicity</u>
63.1	Clearly state the Facility's purpose in a bulletin to state court judges, county directors, social service supervisors and staff, county attorneys and Consumers and Families and Legal Representatives of consumers of Developmental Disabilities services.	<u>Settlement Agreement Section IX.D. Other Practices at the Facility – No Inconsistent Publicity</u>
64.	The Facility has a mission consistent with the Settlement Agreement and this Comprehensive Plan of Action.	<u>Settlement Agreement Section IX.D. Other Practices at the Facility – No Inconsistent Publicity</u>
65.	The Facility posts a Patient / Resident Rights or Bill of Rights, or equivalent, applicable to the person and the placement or service, the name and phone number of the person within the Facility to whom inquiries about care and treatment may be directed, and a brief statement describing how to file a complaint with the appropriate licensing authority.	<u>Settlement Agreement Section IX.E. Other Practices at the Facility – Posting Requirements</u>
66.	The Patient / Resident Bill of Rights posting is in a form and with content which is understandable by residents and family / guardians.	<u>Settlement Agreement Section IX.E. Other Practices at the Facility – Posting Requirements</u>
66.1	Apart from any Patient/Resident Rights or Bill of Rights format which may be required by state law, an alternative version at an appropriate reading level for residents, and with clearly understandable content, will be posted and provided to individuals, parents and guardians on admission, reviewed at IDT meetings, and annually thereafter.	<u>Settlement Agreement Section IX.E. Other Practices at the Facility – Posting Requirements</u>
67.	The expansion of community services under this provision allows for the provision of assessment, triage, and care coordination to assure persons with developmental disabilities receive the appropriate level of care at the	<u>Settlement Agreement Section X.A. System Wide Improvements – Expansion of Community Support Services</u>

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	right time, in the right place, and in the most integrated setting in accordance with the U.S. Supreme Court decision in <i>Olmstead v. L.C.</i> , 527 U.S. 582 (1999).	<u>Settlement Agreement Section X.A. System Wide Improvements – Expansion of Community Support Services</u>
67.1	Community Support Services (CSS) provides assessment, triage, and care coordination so that persons with developmental disabilities can receive the appropriate level of care in the most integrated setting.	<u>Settlement Agreement Section X.A. System Wide Improvements – Expansion of Community Support Services</u>
67.2	Collect and manage data to track CSS interventions noted in 67.1 and their outcomes.	<u>Settlement Agreement Section X.A. System Wide Improvements – Expansion of Community Support Services</u>
67.3	Provide necessary administrative/ management support within CSS to accomplish data management and analysis.	<u>Settlement Agreement Section X.A. System Wide Improvements – Expansion of Community Support Services</u>
67.4	Focus weekly "diversion" meetings to include person-centered development strategies rather than considering only existing vacancies and challenges. From this perspective: 1) Review any proposed admissions to more restrictive settings and consider all possible diversion strategies; 2) Review status of transition planning for all living at the Facility, 3) Add active, individualized planning / development focus to these transition discussions which is consistent with the <i>Olmstead</i> Plan and includes such activities as developing a person-centered request for proposals for any person or persons at the Facility without an identified and appropriate targeted home in the community.	<u>Settlement Agreement Section X.A. System Wide Improvements – Expansion of Community Support Services</u>
67.5	Weekly diversion meetings consider all individuals in danger of losing their living situation with an emphasis upon development of integrated alternatives where none are available.	<u>Settlement Agreement Section X.A. System Wide Improvements – Expansion of Community Support Services</u>
67.6	CSS has additional administrative / managerial support to insure documentation and analysis of all diversion efforts and their impact on individuals' stability regarding living situations and behavioral / mental health.	<u>Settlement Agreement Section X.A. System Wide Improvements – Expansion of Community Support Services</u>

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EC #	Evaluation Criteria	Section Referenced
67.7	CSS provides continuous and on-going diversion from institutionalization and placement in less integrated settings whenever possible by establishing procedures for assessment, care planning, and providing additional services, supports and expertise for individuals in jeopardy of losing their placements or living situations due to behavioral or mental health problems.	<u>Settlement Agreement Section X.A. System Wide Improvements – Expansion of Community Support Services</u>
67.8	The Department will collect and review data relative to admissions and transitions. This shall include, but not be limited to: 1) individual's name, date of birth and county of origin; 2) current residence, provider and type of residential setting, e.g., independent living, family of origin, group home, ICF/ID, etc.; 3) date the individual moved to or was admitted to current residence; 4) previous residences, providers and residential settings; 5) dates of previous admissions and transitions including reason(s) for moves.	<u>Settlement Agreement Section X.A. System Wide Improvements – Expansion of Community Support Services</u>
68.	The Department identifies, and provides long term monitoring of, individuals with clinical and situational complexities in order to help avert crisis reactions, provide strategies for service entry changing needs, and to prevent multiple transfers within the system.	<u>Settlement Agreement Section X.A. System Wide Improvements – Expansion of Community Support Services</u>
68.1	For DHS-operated services, the Department will maintain State and regional quality assurance committees to review data on a monthly basis. This review will include: 1) identifying individuals at heightened risk and determining intervention strategies; 2) reviewing data by county, region and provider to determine if trends or patterns exist and necessary corrective measures; and 3) maintaining meeting minutes detailing attendance (person/title), chairperson, individual and aggregate data review, issues and trends identified (individual and systemic), corrective measures to be taken, dates by which such corrective measures are to be completed, responsible parties, and follow-up of the previous months' action plans.	<u>Settlement Agreement Section X.A. System Wide Improvements – Expansion of Community Support Services</u>
68.2	The Department will maintain an electronic data collection system, which tracks the status of all corrective action plans generated by State and regional quality assurance committees, following up with the appropriate provider or county to ensure task completion.	<u>Settlement Agreement Section X.A. System Wide Improvements – Expansion of Community Support Services</u>
69.	Approximately seventy five (75) individuals are targeted for long term monitoring.	<u>Settlement Agreement Section X.A. System Wide Improvements – Expansion of Community Support Services</u>

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69.1	CSS will identify individuals with clinical and situational complexities who have been served by CSS and who would likely benefit from more intensive monitoring.	
69.2	Seventy five individuals who are significantly at-risk for institutionalization or loss of home due to behavioral or other challenges will be identified for intensive monitoring and, if needed, intervention with additional supports and services.	<u>Settlement Agreement Section X.A. System Wide Improvements – Expansion of Community Support Services</u>
69.3	These 75 individuals will be identified by CSS in collaboration with lead agency case managers based upon frequency of behaviors dangerous to self or others, frequency of interactions with the criminal justice system, sudden increases in usage of psychotropic medications, multiple hospitalizations or transfers within the system, serious reported incidents, repeated failed placements, or other challenges identified in previous monitoring or interventions and cost of placement. The status of these individuals will be reviewed at least semi-annually by CSS.	<u>Settlement Agreement Section X.A. System Wide Improvements – Expansion of Community Support Services</u>
70.	CSS mobile wrap-around response teams are located across the state for proactive response to maintain living arrangements.	<u>Settlement Agreement Section X.A. System Wide Improvements – Expansion of Community Support Services</u>
70.1	Describe locations of the 9 teams that have been established in 23 locations throughout the state.	<u>Settlement Agreement Section X.A. System Wide Improvements – Expansion of Community Support Services</u>
70.2	Provide CSS with administrative / managerial support for the 9 teams to insure sufficient data collection and central data management	<u>Settlement Agreement Section X.A. System Wide Improvements – Expansion of Community Support Services</u>
70.3	Document responses from CSS to individual's satisfaction surveys.	<u>Settlement Agreement Section X.A. System Wide Improvements – Expansion of Community Support Services</u>
71.	CSS arranges a crisis intervention within three (3) hours from the time the parent or legal guardian authorizes CSS' involvement.	<u>Settlement Agreement Section X.A. System Wide Improvements – Expansion of Community Support Services</u>

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71.1	Strategically establish nine teams in 23 locations throughout the State to respond within 3 hours of a request for service. CSS admissions contacts the person's case manager as soon as they learn of a potential or actual crisis situation.	
71.2	Streamline authorization procedure to facilitate CSS' response to reported crises as quickly as possible.	<u>Settlement Agreement Section X.A. System Wide Improvements – Expansion of Community Support Services</u>
72.	CSS partners with Community Crisis Intervention Services to maximize support, complement strengths, and avoid duplication.	<u>Settlement Agreement Section X.A. System Wide Improvements – Expansion of Community Support Services</u>
72.1	There is ongoing collaboration with the Metro Crisis Coordination Program (MCCP), whose intent is to provide a crisis safety net range of services for persons with developmental disabilities or related conditions; MCCP is a collaborative effort of seven counties in the Twin Cities metropolitan area. (metrocrisis.org)	<u>Settlement Agreement Section X.A. System Wide Improvements – Expansion of Community Support Services</u>
72.2	Each county, and tribe as relevant, will have a system of locally available and affordable services to serve persons with developmental disabilities.	<u>Settlement Agreement Section X.A. System Wide Improvements – Expansion of Community Support Services</u>
72.3	Continue quarterly meetings with MCCP.	<u>Settlement Agreement Section X.A. System Wide Improvements – Expansion of Community Support Services</u>
73.	CSS provides augmentative training, mentoring and coaching.	<u>Settlement Agreement Section X.A. System Wide Improvements – Expansion of Community Support Services</u>
73.1	CSS Staff will offer and provide training, as requested or determined to be lacking, on coaching, mentoring and Augmentative training.	<u>Settlement Agreement Section X.A. System Wide Improvements – Expansion of Community Support Services</u>

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EC #	Evaluation Criteria	Section Referenced
73.2	CSS will update training manual as necessary.	<u>Settlement Agreement Section X.A. System Wide Improvements – Expansion of Community Support Services</u>
73.3	CSS will have sufficient administrative/ managerial staff to track/analyze training as well as mentoring and coaching services provided.	<u>Settlement Agreement Section X.A. System Wide Improvements – Expansion of Community Support Services</u>
74.	CSS provides staff at community based facilities and homes with state of the art training encompassing person-centered thinking, multi- modal assessment, positive behavior supports, consultation and facilitator skills, and creative thinking.	<u>Settlement Agreement Section X.A. System Wide Improvements – Expansion of Community Support Services</u>
74.1	CSS determines locations for teams and/or home-based staff. CSS creates position descriptions that identify the necessary knowledge, skills, and abilities. CSS hires or trains staff with necessary qualifications and skills to provide training.	<u>Settlement Agreement Section X.A. System Wide Improvements – Expansion of Community Support Services</u>
74.2	CSS insures that all vacant trainer positions are filled as efficiently as possible and with appropriately qualified staff.	<u>Settlement Agreement Section X.A. System Wide Improvements – Expansion of Community Support Services</u>
74.3	Training curricula are reviewed routinely to insure consistency with best practices.	<u>Settlement Agreement Section X.A. System Wide Improvements – Expansion of Community Support Services</u>
75.	CSS' mentoring and coaching as methodologies are targeted to prepare for increased community capacity to support individuals in their community.	<u>Settlement Agreement Section X.A. System Wide Improvements – Expansion of Community Support Services</u>
75.1	CSS will mentor and develop coaches in the community with a vision to support individuals in communities.	<u>Settlement Agreement Section X.A. System Wide Improvements – Expansion of Community Support Services</u>

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75.2	Track issues including frequency of behaviors dangerous to self or others, frequency of interactions with the criminal justice system, sudden increases in usage of psychotropic medications, multiple hospitalizations or transfers within the system, serious reported incidents, repeated failed placements, or other challenges identified in previous monitoring or interventions and cost of placement.	<u>Settlement Agreement Section X.A. System Wide Improvements – Expansion of Community Support Services</u>
75.3	Provide additional administrative/ managerial support to CSS sufficient to enable timely and complete data collection, entry and analysis	<u>Settlement Agreement Section X.A. System Wide Improvements – Expansion of Community Support Services</u>
76.	An additional fourteen (14) full time equivalent positions were added between February 2011 and June 30, 2011, configured as follows: Two (2) Behavior Analyst 3 positions; One (1) Community Senior Specialist 3; (2) Behavior Analyst 1; Five (5) Social Worker Specialist positions; and Five (5) Behavior Management Assistants.	<u>Settlement Agreement Section X.A. System Wide Improvements – Expansion of Community Support Services</u>
76.1	Review position descriptions, update as necessary.	<u>Settlement Agreement Section X.A. System Wide Improvements – Expansion of Community Support Services</u>
76.2	Work with DHS Human Resources on advertising positions.	<u>Settlement Agreement Section X.A. System Wide Improvements – Expansion of Community Support Services</u>
76.3	Fill any vacancies in functionally equivalent positions, with the required qualifications. As necessary to fulfill this Comprehensive Plan of Action, fill any position.	<u>Settlement Agreement Section X.A. System Wide Improvements – Expansion of Community Support Services</u>
77.	None of the identified positions are vacant.	<u>Settlement Agreement Section X.A. System Wide Improvements – Expansion of Community Support Services</u>
77.1	Fill as quickly as possible and with qualified applicants all vacancies in these and other functionally equivalent positions. Provide sufficient salary, bonus and other structures and incentives to ensure that the positions are filled.	<u>Settlement Agreement Section X.A. System Wide Improvements – Expansion of Community Support Services</u>

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78.	Staff conducting the Functional Behavioral Assessment or writing or reviewing Behavior Plans shall do so under the supervision of a Behavior Analyst who has the requisite educational background, experience, and credentials recognized by national associations such as the Association of Professional Behavior Analysts. Any supervisor will co-sign the plan and will be responsible for the plan and its implementation.	Settlement Agreement Section X.A. System Wide Improvements – Expansion of Community Support Services
79.	The State and the Department developed a proposed Olmstead Plan, and will implement the Plan in accordance with the Court's orders. The Plan will be comprehensive and will use measurable goals to increase the number of people with disabilities receiving services that best meet their individual needs and in the "Most Integrated Setting," and which is consistent and in accord with the U.S. Supreme Court's decision in Olmstead v. L.C., 527 U.S. 581 (1999). The Olmstead Plan is addressed in Part 3 of this Comprehensive Plan of Action.	Settlement Agreement Section X.B. System Wide Improvements – Olmstead Plan
80.	Rule 40 modernization is addressed in Part 2 of this Comprehensive Plan of Action. DHS will not seek a waiver of Rule 40 (or its successor) for a Facility.	Settlement Agreement Section X.C. System Wide Improvements – Rule 40
81.	The State takes best efforts to ensure that there are no transfers to or placements at the Minnesota Security Hospital of persons committed solely as a person with a developmental disability.	Settlement Agreement Section X.D. System Wide Improvements – Minnesota Security Hospital
82.	There are no transfers or placements of persons committed solely as a person with a developmental disability to the Minnesota Security Hospital (subject to the exceptions in the provision).	Settlement Agreement Section X.D. System Wide Improvements – Minnesota Security Hospital
82.1	DHS will communicate to all County Attorneys and state courts responsible for commitments, and to all county directors and case managers, that pursuant to the order of the federal court approving this Plan, no person committed with a sole diagnosis of developmental disability may be transferred or placed at the Minnesota Security Hospital. Such communication will be made from the Commissioner within 30 days of the order approving this plan and, in addition, by DHS staff who become aware of any such proposed commitment or transfer.	Settlement Agreement Section X.D. System Wide Improvements – Minnesota Security Hospital

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EC #	Evaluation Criteria	Section Referenced
82.2	The Jensen Implementation Team will document any proposed transition to or placement at MSH of any person committed solely as a person with a developmental disability, including but not limited to any diversion efforts prior to transfer or placement and any subsequent placements.	<u>Settlement Agreement Section X.D. System Wide Improvements – Minnesota Security Hospital</u>
83.	There has been no change in commitment status of any person originally committed solely as a person with a developmental disability without proper notice to that person's parent and/or guardian and a full hearing before the appropriate adjudicative body.	<u>Settlement Agreement Section X.D. System Wide Improvements – Minnesota Security Hospital</u>
83.1	The Jensen Implementation Team will document any changes in commitment status of a person originally committed solely as a person with a developmental disability. The documentation will include any notifications and a description of any hearing, and copies of petitions and other papers submitted in connection with notification and/or hearing.	<u>Settlement Agreement Section X.D. System Wide Improvements – Minnesota Security Hospital</u>
84.	All persons presently confined at Minnesota Security Hospital who were committed solely as a person with a developmental disability and who were not admitted with other forms of commitment or predatory offender status set forth in paragraph 1, above, are transferred by the Department to the most integrated setting consistent with <i>Olmstead v. L.C.</i> , 527 U.S. 581 (1999).	<u>Settlement Agreement Section X.D. System Wide Improvements – Minnesota Security Hospital</u>
84.1	Provide current census, and identifying information, of any people living at MSH committed solely as a person with a developmental disability.	<u>Settlement Agreement Section X.D. System Wide Improvements – Minnesota Security Hospital</u>
84.2	Provide documentation of any transition/ placement from MSH since 12/5/2011 of any persons committed solely as a person with a developmental disability. Any such transfer/placement shall be to the most integrated setting consistent with <i>Olmstead v. L.C.</i> , 527 U.S. 581 (1999).	<u>Settlement Agreement Section X.D. System Wide Improvements – Minnesota Security Hospital</u>
85.	All AMRTC residents committed solely as a person with a developmental disability and who do not have an acute psychiatric condition are transferred from AMRTC to the most integrated setting consistent with <i>Olmstead v. L.C.</i> , 527 U.S. 581 (1999).	<u>Settlement Agreement Section X.E. System Wide Improvements – Anoka Metro Regional Treatment Center</u>

Jensen Settlement Agreement Comprehensive Plan of Action Ninth Compliance Update Report Reporting Period: May 1 to September 30, 2015

EC #	Evaluation Criteria	Section Referenced
85.1	DHS will communicate to all County Attorneys and state courts responsible for commitments, and to all county directors and case managers that, pursuant to the order of the federal court approving this Plan, no person committed with a sole diagnosis of developmental disability may be transferred or placed at the Anoka Metro Regional Treatment Center. Such communication will be made from the Commissioner within 30 days of the order approving this plan and, in addition, by DHS staff who become aware of any such proposed commitment or transfer.	<u>Settlement Agreement Section X.E. System Wide Improvements – Anoka Metro Regional Treatment Center</u>
85.2	The Jensen Implementation Team will document any proposed transition to or placement at Anoka Metro Regional Treatment Center of any person committed solely as a person with a developmental disability, including but not limited to any diversion efforts prior to transfer or placement and any subsequent placements.	<u>Settlement Agreement Section X.E. System Wide Improvements – Anoka Metro Regional Treatment Center</u>
86.	The term “mental retardation” has been replaced with “developmental disabilities” in any DHS policy, bulletin, website, brochure, or other publication. DHS will continue to communicate to local government agencies, counties, tribes, courts and providers that they should adhere to this standard.	<u>Settlement Agreement Section X.F. System Wide Improvements – Language</u>
86.1	All references to outdated terminology used to describe persons with Developmental Disabilities have been updated with clarification on the Departments use of people first language inserted in areas where historical documents are found. In addition to, or in lieu of, updating each webpage, DHS shall maintain the previously established "disclaimer" language to explain the presence in historical documents of outdated terminology.	<u>Settlement Agreement Section X.F. System Wide Improvements – Language</u>
87.	DHS drafted and submitted a bill for the Minnesota Legislature that will require the replacement of terms such as "insane," "mentally incompetent," "mental deficiency," and other similar inappropriate terms that appear in Minnesota statutes and rules.	<u>Settlement Agreement Section X.F. System Wide Improvements – Language</u>
87.1	On the removal of inappropriate terms that appear in Minnesota statutes and Rules, see 2013 legislation at Chapter 62 and Chapter 59, Article 3, section 21 signed by the Governor on May 16, 2013. DHS will not seek to repeal or replace this legislation.	<u>Settlement Agreement Section X.F. System Wide Improvements – Language</u>
88.	MSHS-Cambridge will be closed. There will be community treatment homes dispersed geographically. Any need for additional community treatment homes beyond four will be determined based on a specific assessment of need based on client needs with regard to such criteria as those at risk for institutionalization or re-institutionalization, behavioral or other challenges, multiple hospitalizations or other transfers within the system, serious reported injuries, repeated failed placements, or other challenges identified in previous monitoring or interventions.	<u>Closure of MSHS-Cambridge and Replacement with Community Homes and Services</u>

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EC #	Evaluation Criteria	Section Referenced
89.	Staff hired for new positions as well as to fill vacancies, will only be staff who have experience in community based, crisis, behavioral and person-centered services and whose qualifications are consistent with the Settlement Agreement and currently accepted professional standards. Staff reassigned from MSHS-Cambridge will receive additional orientation training and supervision to meet these qualifications within 6 months of reassignment.	<u>Closure of MSHS-Cambridge and Replacement with Community Homes and Services</u>
90.	Provide integrated vocational options including, for example, customized employment.	<u>Closure of MSHS-Cambridge and Replacement with Community Homes and Services</u>
91.	All requirements in this Comprehensive Plan of Action are fully met for each individual served in the area of Person-Centered Planning.	<u>Closure of MSHS-Cambridge and Replacement with Community Homes and Services</u>
92.	All requirements in this Comprehensive Plan of Action are fully met for each individual served in the area of Transition Planning.	<u>Closure of MSHS-Cambridge and Replacement with Community Homes and Services</u>
93.	DHS will provide augmentative service supports, consultation, mobile teams, and training to those supporting the person. DHS will create stronger diversion supports through appropriate staffing and comprehensive data analysis.	<u>Closure of MSHS-Cambridge and Replacement with Community Homes and Services</u>
94.	All sites, programs and services established or utilized under this Comprehensive Plan of Action shall be licensed as required by state law.	<u>Closure of MSHS-Cambridge and Replacement with Community Homes and Services</u>
95.	Residents currently at MSHS-Cambridge transition to permanent community homes.	<u>Closure of MSHS-Cambridge and Replacement with Community Homes and Services</u>
96.	Training plan for staff strongly emphasizes providing tools and support services in a person's home as quickly as possible. Staff will also be trained in delivering community based programs and processes.	<u>Closure of MSHS-Cambridge and Replacement with Community Homes and Services</u>

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EC #	Evaluation Criteria	Section Referenced
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-institutionalization and other transfers to more restrictive settings, and to maintain the most integrated setting for those individuals.	<u>Therapeutic Follow-Up of Class Members and Clients Discharged from METO/MSHS-Cambridge</u>
98.1	Successful Life Project (SLP) staff will initiate a statewide review process on or about October 1, 2014 to perform an initial assessment on all persons included in the therapeutic follow-up group no later than November 30, 2014. This review will be a brief face-to-face meeting with each individual to assess the general well-being of the person in his or her home and to determine if there are any critical or immediate health or safety issues.	<u>Therapeutic Follow-Up of Class Members and Clients Discharged from METO/MSHS-Cambridge</u>
98.2	A tool to help reviewers screen individuals and document findings during the initial assessment was developed from existing instruments.	<u>Therapeutic Follow-Up of Class Members and Clients Discharged from METO/MSHS-Cambridge</u>
98.3	During the initial assessment, immediate follow-up will take place on any person for whom home health and safety concerns have been identified. Appropriate actions and referral will be made as appropriate.	<u>Therapeutic Follow-Up of Class Members and Clients Discharged from METO/MSHS-Cambridge</u>
98.4	The results of this initial assessment process will assist the SLP in prioritizing needs of individuals for the next phase of the therapeutic follow-up, a more robust assessment using the Community Compliance Review Tool.	<u>Therapeutic Follow-Up of Class Members and Clients Discharged from METO/MSHS-Cambridge</u>
98.5	Following the completion of the initial assessment and the prioritization of persons included in the therapeutic follow-up group, MLB will begin the ongoing comprehensive compliance reviews using the Community Compliance Review Tool.	<u>Therapeutic Follow-Up of Class Members and Clients Discharged from METO/MSHS-Cambridge</u>
98.6	A bulletin will be distributed widely to announce the Successful Life Project in the fall of 2014.	<u>Therapeutic Follow-Up of Class Members and Clients Discharged from METO/MSHS-Cambridge</u>
98.7	Behavior analysts or other staff contact the guardian by telephone before the initial assessment (the first face-to-face visit) to explain why they are coming and what to expect, and gets verbal consent to contact the person. The manager may assist with some contacts if there are barriers or issues that may arise.	<u>Therapeutic Follow-Up of Class Members and Clients Discharged from METO/MSHS-Cambridge</u>

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EC #	Evaluation Criteria	Section Referenced
98.8	If the person / guardian refuses to give consent for an initial assessment or any subsequent compliance review, individual letters will be sent to each person, guardian, provider, county case manager, family and other team members to explain the project and the process of following up with people, and information on how to contact SLP for more information or to consent to the initial assessment or compliance review.	<u>Therapeutic Follow-Up of Class Members and Clients Discharged from METO/MSHS-Cambridge</u>
99.	The scope of the Rule 40 modernization shall include all individuals with developmental disabilities served in programs, settings and services licensed by the Department, regardless of the setting in which they live or the services which they receive. As stated in the Settlement Agreement, the modernization of Rule 40 which will be adopted under this Comprehensive Plan of Action shall reflect current best practices, including, but not limited to the use of positive and social behavioral supports, and the development of placement plans consistent with the principle of the 'most integrated setting' and 'person centered planning, and development of an 'Olmstead Plan'" consistent with the U.S. Supreme Court's decision in Olmstead v. L.C., 527 U.S. 582 (1999).	<u>Modernization of Rule 40</u>
100.	<p>Within the scope set forth above, the rule-making process initiated by the Department of Human Services pursuant to the Settlement Agreement, the Department shall by December 31, 2014 propose a new rule in accordance with this Comprehensive Plan of Action ("Proposed Rule"). This deadline may be extended for good cause shown upon application to the Court not later than 20 days prior to the deadline.</p> <p>Should the Department of Human Services believe that it requires additional rule-making authority to satisfy the requirements of this Plan, in order to apply the rule to all providers covered by Rule 40 and the scope of this Plan, the Department will seek an amendments to statutes in the 2014 Minnesota Legislative session to ensure that the scope of the Rule 40 modernization stated above is fulfilled and will apply to all of the facilities and services to persons with developmental disabilities governed by Rule 40. Any proposed amendment(s) are subject to the notice and comment process under EC __ below.</p> <p>If legislative approval for the requested authority is not obtained in the 2014 Minnesota Legislative session, the Court may use its authority to ensure that the Adopted Rule will apply consistent with the scope set forth in EC 99.</p>	<u>Modernization of Rule 40</u>

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EC #	Evaluation Criteria	Section Referenced
	By August 31, 2015, the Department of Human Services shall adopt a new rule to modernize Rule 40 ("Adopted Rule"). This deadline may be extended for good cause shown upon application to the Court not later than 60 days prior to the deadline.	
101.	<p>The Proposed Rule shall address the temporary use and tapering of carefully monitored individual medical restraints for self-injurious behavior while non-restraint positive behavior supports are implemented under professional supervision.</p> <p>In formulating the Proposed Rule, and any other methods or tools of implementation, the Department shall carefully consider the recommendations of Dr. Fredda Brown, whose consultation on the Rule 40 modernization the Department requested with regard to matters on which the Advisory Committee had not reached consensus. The Department shall document the results of this review.</p>	<u>Modernization of Rule 40</u>
102.	<p>The Proposed Rule shall be consistent with and incorporate, to the extent possible in rule, the Rule 40 Advisory Committee's consensus recommendations stated in its Recommendations on Best Practices and Modernization of Rule 40 (Final Version - July 2013). During the rule-making process, the Department shall advocate that the final rule be fully consistent with the Rule 40 Advisory Committee's recommendations. The phrase "to the extent possible in rule" above is intended to recognize that some elements of the Committee's recommendations are not susceptible to the format of rules and, therefore, will be implemented by the Department through policies, bulletins, contract provisions, and by other means.</p> <p>Not later than (30) days prior to public notice of the content of the Proposed Rule, the Department shall provide a draft of the rule to Plaintiffs' Class Counsel, the Court Monitor, the Ombudsman for Mental Health and Developmental Disabilities, and the Executive Director of the Governor's Council on Developmental Disabilities for review and comment and, if requested by any of these entities, for discussion in a conference prior to public notice of the content of the Proposed Rule. The Department will share with these entities the intended final content not later than five (5) days prior to the public notice.</p>	<u>Modernization of Rule 40</u>

Jensen Settlement Agreement Comprehensive Plan of Action Ninth Compliance Update Report Reporting Period: May 1 to September 30, 2015

EC #	Evaluation Criteria	Section Referenced
103.	Within thirty (30) days of the promulgation of the Adopted Rule, Plaintiffs' Class Counsel, the Court Monitor, the Ombudsman for Mental Health and Developmental Disabilities, or the Executive Director of the Governor's Council on Developmental Disabilities may suggest to the Department of Human Services and/or to the Olmstead Implementation Office that there are elements in the Rule 40 Advisory Committee Recommendations on Best Practices and Modernization of Rule 40 (Final Version - July 2013) which have not been addressed, or have not adequately or properly been addressed in the Adopted Rule. In that event, those elements shall be considered within the process for modifications of the Olmstead Plan. The State shall address these suggestions through Olmstead Plan sub-cabinet and the Olmstead Implementation Office. Unresolved issues may be presented to the Court for resolution by any of the above, and will be resolved by the Court.	<u>Modernization of Rule 40</u>
104.	The Department of Human Services shall implement the Adopted Rule and take other steps to implement the recommendations of the Rule 40 Advisory Committee.	<u>Modernization of Rule 40</u>

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

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

Plaintiffs,

vs.

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

Defendants.

File No. 09-CV-01775-DWF-BRT

**PLACEHOLDER FOR
JENSEN SETTLEMENT
AGREEMENT COMPREHENSIVE
PLAN OF ACTION (CPA) - NINTH
COMPLIANCE UPDATE REPORT,
REPORTING PERIOD: MAY 1 –
SEPTEMBER 30, 2015
(NON-REDACTED VERSION)**

This document is a placeholder for the following item which is filed in conventional or physical form with the Clerk's Office:

Jensen Settlement Agreement Comprehensive Plan of Action (CPA) - Ninth Compliance Update Report, Reporting Period: May 1 – September 30, 2015 (non-redacted version)

If you are a participant in this case, this filing will be served upon you in conventional format. This filing was not e-filed for the following reason:

- ☐ Voluminous Document* (Document number of order granting leave to file conventionally: ____)
- ☐ Unable to Scan Documents (e.g., PDF file size of one page larger than 2MB, illegible when scanned)
- ☐ Physical Object (description):
- ☐ Non Graphical/Textual Computer File (audio, video, etc.) on CD or other media
- ☒ Item Under Seal pursuant to court orders* (Pursuant to Protective Orders Doc. Nos. 57, 114, 190, 239)
- ☐ Item Under Seal pursuant to the Fed. R. Civ. P. 52 and Fed. R. Crim. P. 49.1 (Document number of redacted version: ____)
- ☐ Other (description):

*Requires Judicial Approval

General Information

Court	United States District Court for the District of Minnesota; United States District Court for the District of Minnesota
Federal Nature of Suit	Civil Rights - Other[440]
Docket Number	0:09-cv-01775