Minnesota Department of **Human Services**

Amended version of Letter filed August 10, 2015

August 12, 2015

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

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

Dear Judge Frank,

I am pleased to present the revised Olmstead Plan, as ordered by the Court on May 6, 2015 (Dkt. 435) and on July 9, 2015 (Dkt. 472). This morning, the Olmstead Subcabinet Executive Committee adopted this Plan on behalf of the Subcabinet.[1]

As you know, this revised Plan is the result of many hours of hard work on the part of Plaintiffs' class counsel, the Executive Director of the Governor's Council on Developmental Disabilities, the Ombudsman for Mental Health and Developmental Disabilities, Olmstead Subcabinet members, and agency staff. I am sure you are also aware that the Plan presented to you today would not have been possible without the time and effort of Magistrate Judge Thorson, and I would like the Court to know that the State is most grateful to her and her staff for facilitating development of the Plan.

You will see that this is a very different Plan from previous versions. This Plan focusses on setting measurable goals to achieve defined outcomes, rather than on government processes and actions alone. The Plan has eleven topic areas; each one contains one or more measurable goals over a three to five-year period, with annual targets. Two additional topic areas are currently under development and will be added in 2016. We have chosen three to five years as the immediate strategic planning period, but we intend the Olmstead Plan to continue well into the future, as a dynamic roadmap, determining its direction from information gained by experience implementing the Plan.

[1] Because this is an amended version of the letter filed on August 10, references to "today" or "this morning" refer to August 10. Attachments to the letter filed on August 10 are not being refiled with this letter and remain unaffected.

Each measurable goal is accompanied by broad strategies for how the goal will be achieved, as well as by a "rationale" section explaining the reasons for the goal. Funding is either addressed in the rationale section, or will be addressed in the relevant work plans. The detailed implementation of the strategies will be addressed in work plans. These will be developed by each responsible agency or agencies working with the staff of the Olmstead Implementation Office, reviewed and approved by the Subcabinet and submitted to the court within 60 days, as the court has ordered. The work plans will contain specific actions, timelines for completion, and persons or entities responsible. We include an example of a work plan with the Plan submitted to you today.

Care was taken to ensure that the Plan submitted today accounted for all content contained in the original and previous versions of the Plan. To verify this, a comparison document was created showing all of the action items from the March 20, 2015 Plan and where each is accounted for in the current Plan. (Document attached).

We established the measurable goals using a set of criteria derived from the language in the *Jensen* Settlement Agreement, the Court's previous Orders, *Olmstead v. L.C.*, 527 U.S. 581 (1999), and the Statement of the Department of Justice on Enforcement of the Integration Mandate of Title II of the ADA and *Olmstead v. L.C.* Taking all of these together, we established a checklist of criteria for the Plan and its content. Following is a summary of these criteria:

- Comprehensive: the Plan must include commitments for each group of people who are unnecessarily segregated;
- Baseline: each goal must have a baseline analysis from which progress can be measured;
- Measurable: the goal must achieve a defined outcome;
- Concrete, reliable, and realistic: the commitments must be specific, and capable of achievement in the specified time period;
- Strategic: the goals must be important to initiation, conduct, or completion of the Plan within the first three to five-year time period;
- Timeframes: there must be specific and reasonable timeframes established;
- Responsibility: the Plan must indicate which agency or agencies are responsible for achieving the goal;
- Resources/funding: the Plan must indicate the extent to which funding exists to support the relevant goal, including consideration of reallocating existing service dollars.

Additionally, I would like to highlight an area in which the revised Plan respectfully, proposes procedures that are also the subject of a previous Court Order. Regarding amendments to the Plan, the revised Plan establishes annual Subcabinet review of the measurable goals, with proposed amendments posted for public review and comment before the Subcabinet acts upon them.[2] Please note that the Court's Order of August 28,

[2] "Updating and Extending the Olmstead Plan," p. 97.

2013 establishes procedures by which Plan modifications must be submitted to the Court Monitor, subject to review by the Court.[3]

We submit this Plan with the understanding that all parties—plaintiffs' class counsel, the Ombudsman for Mental Health and Developmental Disabilities, the Executive Director of the Governor's Council on Developmental Disabilities, and DHS—are in agreement, except for certain features of the Positive Supports and Waiting List portions of the Plan, where plaintiffs' class counsel is not in full agreement. Additionally, we have heard from and met with the Minnesota Disability Law Center on the provisions for Employment, Housing and Services, and the Waiting List. We have taken MDLC's comments into consideration in these provisions.

Finally, the revised Plan addresses communications and public relations.[4] The Olmstead Implementation Office (OIO) is responsible for managing communications and is responsible for responding to communications from the public. If the Court receives communications about the Olmstead Plan, the Court is invited to forward those communications to the OIO, which will work with agency staff to respond directly. Items may be forwarded by email to MNOlmsteadPlan@state.mn.us.

This is a promising time for people with disabilities in Minnesota, and for all citizens of the State, as greater inclusion and integration begin to enrich Minnesota's many communities in ways both seen and unseen. With the submission of this Plan we now turn to the difficult but exciting work of achieving our goals.

Sincerely,

Lucinda E. Jesson
Commissioner, Minnesota Department of Human Services

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

[3] Order, Dkt. 224, August 28, 2013, p. 6.
[4] "Communications and public relations," p.98.