

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

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

Civil No. 09-1775 (DWF/FLN)

Plaintiffs,

v.

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

Defendants.

REPORT TO THE COURT

**COMMUNITY COMPLIANCE REVIEW:
DHS FOLLOW-UP**

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Court Monitor

January 28, 2015

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Community Compliance Review: DHS Follow-Up

This report notes follow-up evaluations by DHS of the situation of six class members who moved from METO/MSHS-Cambridge to the community for whom DHS had been found in non-compliance by the Court Monitor seven months ago. These recent evaluations (December 2014 to January 2015) found significant positive change; the earlier near-complete non-compliance has improved; DHS reports compliance or partial compliance in a number of areas.

The Court Monitor expects DHS to immediately take steps to bring the services, support and protections to these individuals into verifiable compliance.

Introduction

In responding to the 2011 Settlement Agreement's mandates, the Court has emphasized the dual nature of Defendants' obligations: protection of individuals while they live in an institution and assurance of a smooth transition to the community. Mere arrival "in the community" is insufficient

under the Court's orders.¹ Community living must be supported and developed through person centered planning and implementation of the results of that planning.

Transition planning and implementation is not an afterthought with regard to judicial enforcement of the orders in this case.² Insufficiencies in attention to transitions to the community have been before the Court numerous times.³

Seven months ago, the Court Monitor filed the *Community Compliance Review* (June 20, 2014) (Dkt. 313). The monitor found that the State was in non-compliance with regard to with regard to provision of adequate and appropriate transition plans, protections, supports, and services consistent with each person's individualized needs.

The monitor explained that “[m]any factors triangulate to support this conclusion.”⁴ One factor was that each of six randomly selected class

¹ See *Report to the Court: Client R.W.: AWOL v. Transitioned to the Community* (Nov. 12, 2013, Dkt. 251) (DHS reported to court that MSHS-Cambridge client R.W. has “transitioned to the community” when, in fact, he was listed by DHS as having gone “AWOL” when he ran sped off from the institution in a waiting car).

² *Settlement Agreement*, at 13 (Dkt. 103, June 23, 2011) (transition planning); Order of August 28, 2013 (Dkt. 224) at 10.

³ E.g., Court Monitor, *Status Report on Compliance* at 104, ¶5. (June 22, 2013) (“Gaps between the County service systems and DHS hinder effective and timely transition planning and the development of appropriate individual placements.”); *Recommendation to the Parties: Transition Planning and the Re-purposing of MSHS-Cambridge* at 3 (Sept. 23, 2013) (Dkt. 226); Institute on Community Integration, University of Minnesota, *Independent Review of Transitions: Three Individuals with Developmental Disabilities Who Moved from the Minnesota Security Hospital to the Community* (April 30, 2014) (Exhibit 67 to the *Defendants’ Second Compliance Update Report* (May 12, 2014) (Dkt. 299))

⁴ *Community Compliance Review* (June 20, 2014) at 3 (Dkt. 313).

members, all of whom had left MSHS-Cambridge after adoption of the Settlement Agreement, were in difficult straits.⁵ The monitor found that community supports are not individualized and do not meet professional standards as required by the Court's orders. "For some, their services are more life-wasting than life-fulfilling."⁶

The letter-response by the Department of Human Services (July 3, 2014) (Dkt. 324) did not contest any of the fact findings in the monitor's report and agreed that "more can be done in the area of statewide training and use of transition plans by counties."⁷

DHS Follow-up on the Six Individuals

To the credit of the Department of Human Services, it assigned a professional staff person, psychologist Dr. Shannon Torborg, to visit the six individuals to ascertain their current situation. Her visits took place between December 9, 2014 and January 27, 2015. Although Dr. Torborg's review was less intense and less methodical than that of the Court Monitor, her findings do have bearing on the status of the class members reviewed.⁸

⁵ These individuals comprised 13% of the 45 listed by the State as having left the institution on or after July 1, 2011.

⁶ *Community Compliance Review* at 4.

⁷ DHS Letter for Judge Frank (July 3, 2014) at 2 (Dkt. 324)

⁸ Each of the Court Monitor's reviews were done by a team of two professionals, experienced in review of compliance with court orders, and each review took two days plus reporting writing time. A 32 page protocol was employed which included ratings on numerous criteria; the protocol was based on one commissioned by the Minnesota Department of Human Services and established by the University of Minnesota, Institute on Community Integration to evaluate compliance with *Jensen/Olmstead* standards for three individuals placed under this Court's orders.

In contrast, Dr. Torborg's reviews considered the six one-sentence general themes which are headings in the monitor's protocol, and she provided findings in 5 to 7 page reports for each person. There is no indication that she utilized any protocol.

The Court Monitor accepts for the purposes of this report the Department of Human Services' evaluation of the class members current situation. That evaluation finds that in many respects, compliance has improved; some of the most oppressive conditions have been ameliorated and there is an increase in community integration for some of the individuals.

On the other hand, for one person JJ, there is no improvement after seven months, and DHS' report does not indicate that any action has been taken by DHS, the County or the provider agency to make the major changes required. Dr. Torborg's summary paragraph of her report is haunting:

“[JJ] is living in an environment that is not amenable to the requirements set forth by the Jensen Settlement Agreement. She does not have a person-centered plan, functional behavior assessment, or transition plan in her file. She has very few options for choice in her daily life, has little to no opportunities for community integration, and has few, if any, natural relationships and supports. Objective assessment and subjective report indicate her quality of life is very low. She has requested ECT for depression, given her current circumstances and hopelessness.”⁹

All six DHS reports make “recommendations” but these do not include direction from DHS mandating compliance; this is true where a current Person Centered Plan is missing, even though the PCP is a critical basis for compliance. Six of the 6 still have no current Person Centered Plan in place, individualization is missing for most.

The next two pages summarize the Court Monitor's original evaluation results and the recent DHS results¹⁰ for the class members. The appendix to this report presents pertinent excerpts from the two reports in a side-by-side format.

⁹ DHS Clinical Consultation. Dr. S. Torborg, December 10, 2014 at 6.

¹⁰ The DHS results shown are the Court Monitor's interpretation of Dr. Torborg's reporting; only in several matters did she draw conclusions regarding compliance.

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Compliance Results: Persons A through F¹¹

● = Compliance ● = Non-compliance ● = Partial compliance
 ○ = insufficient information

	A BH	B PMc	C JA	D WW	E JJ	F EB
Individual & Family Involvement	●	●	●	●	●	● ●
Person-centered Principles & Processes	●	●	●	●	●	● ●
Choice & Quality of Life	●	●	●	●	●	● ●
Alternatives	●	●	●	●	●	● ●
Adequate Services in Integrated Settings	●	●	●	●	●	● ●
Provider	Private	Private	Private	Private	Private	Residential Day Program
Location	Dakota County		Hennepin County			

¹¹ Person F's state-operated residential program was rated non-compliant under the review's standards. However, on the person-centered criterion, all but one of the indicators was rated positive. Overall, person centeredness was positive.

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Compliance Results: Persons A through F¹²

● = Compliance ● = Non-compliance ● = Partial compliance
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	A BH	B PMc	C JA	D WW	E JJ	F EB	
Individual & Family Involvement	●	●	●	●	○	●	○
Person-centered Principles & Processes	●	●	●	●	○	●	○
Choice & Quality of Life	●	●	●	●	●	●	○
Alternatives	●	●	●	●	●	●	○
Adequate Services in Integrated Settings	●	●	●	●	●	●	○
Provider	Private	Private	Private	Residential	Private	Residential	Day Program
Location	Dakota County		Hennepin County				

*Person F: Residential: DHS/MSOCS
Day Program: Private

¹² The reports include sufficient information on “day program” for persons D and F; “day” is therefore rated separately.

DHS is expected to immediately ensure compliance with the Court's orders for the six individuals whose situation was reviewed by the Court Monitor seven months ago and by DHS in the last two months. The situation of these six individuals is an opportunity for DHS to demonstrate success in achieving compliance with the Court's orders. The Comprehensive Plan of Action specifically addresses DHS' responsibilities, *e.g.:*

Consistent with its obligations under the Settlement Agreement applicable law and the federal court orders in this case the Department of Human Services shall utilize best efforts to require counties and providers to comply with the Comprehensive Plan of Action through all necessary means within the Department of Human Services' authority including but not limited to incentives, rule regulation, contract, rate-setting, and withholding of funds.

CPA at 2.

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.

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Conclusion

The Court Monitor respectfully submits this report to this Honorable Court for its review and action.

Respectfully submitted,

/s David Ferleger

January 28, 2015

APPENDIX

COMMUNITY REVIEW FOLLOW-UP

Six class members were reviewed reviewed by the Court Monitor through consultants using a protocol modified from the protocol developed for DHS by the University of Minnesota, Institute on Community Integration. Those reviews took place in May 2014.

DHS' Jensen Implementation Office, through staff person Dr. Shannon Torborg, reviewed the same individuals in December-January, 2015. She did not use the Monitor's protocol. Her discussion was organized around the five standards/themes in the Court Monitor's protocol. These are:

1. **Individual and Family Involvement:** Each person and the person's family and/or legal representative shall be permitted to be involved in any evaluation, decision-making and planning processes, to the greatest extent practicable, using whatever communication method the person prefers.
2. **Person-Centered Principles and Processes:** To foster each person's self-determination and independence, person-centered planning principles shall be used at each stage of the process to facilitate the identification of the person's specific interests, goals, likes and dislikes, and abilities and strengths, as well as support needs.
3. **Choice and Quality of Life:** Each person shall be given the opportunity to express a choice regarding preferred activities that contribute to a quality of life.
4. **Alternatives:** Best efforts shall have been undertaken to provide each person with reasonable alternatives for living and working.
5. **Provision of Adequate Services in Integrated Settings:** Each person shall be provided with adequate and appropriate transition plans, protections, supports, and services consistent with such person's individualized needs, in the most integrated setting and where the individual does not object.

Name: BH

Mr. BH is a 21-year-old, never married, Caucasian male from Dakota County. He was discharged from MSHS-Cambridge in March 2014 to his current residence, Everyday Living in [REDACTED], Minnesota.¹

Court Monitor Community Compliance Review² June 2014, pp. 23-24	DHS Review³ December 9, 2014
	<p>Individual and Family Involvement “...Mr. BH is able to coordinate visits with his family at his own discretion.” (p. 2)</p> <p>“...Mr. BH does not want them [dad and stepmom] involved at this time, reportedly because they often advocate for restrictions on his independence.” (p. 2)</p>
<p>Person Centered Principles and Processes “Prior to leaving Cambridge, BH had the benefit of what appears to be an excellent person-centered Transition Plan, rooted in an acknowledgement of what people need to know about him and what should be in place for his successful return to the community. Unfortunately, many of the ideas and knowledge about BH, and strong recommendations about what should be in place, were either ignored or forgotten, and the plan was clearly not relied on to form the basis of his support.”</p> <p>“In contrast, BH has been put into a rigid program which has not been tailored to his needs.”</p>	<p>Person Centered Principles and Processes “...Mr. BH’s Person-Centered Plan has not been updated since he transitioned from MSHS-C. They indicated they were unaware that this document should be used to guide his program plan and updated as important changes occur in Mr. BH’s life.” (p. 2)</p> <p>“Mr. BH runs his meetings, chooses who should attend his meetings, and prioritizes his goals at every stage of program planning.” (p. 2)</p> <p>“Andrea Omlid, Program Manager, reportedly provides Person Centered Training and Orientation for each staff</p>

¹ These descriptions are taken from *Clinical Consultation Reports* by Dr. Shannon Torborg, Clinical Psychologist

² *Report to the Court: Community Compliance Review*, June 20, 2014, [Dkt 313/327]

³ Minnesota Department of Human Services: Clinical Consultations by Dr. Shannon Torborg, Clinical Psychologist.

<p>“The staff supporting BH in the home and day program are unaware of the principles of person-centered thinking, have received no or nearly no training, and are missing other essential formative bodies of knowledge about how to support people well in the community, including positive approaches the challenging behavior[sic], functional behavioral analysis, Social Role Valorization, the important of social integration, etc.”</p> <p>“They are also unaware of the Jensen Settlement, the Olmstead decision, and that BH is a member of a protected group of people who have been promised responsive, individualized services.”</p>	<p>member at Everyday Living annually. Staff have also received training specific to Mr. BH from David Blom and Stuart Hazard from Community Support Services (CSS) pertaining to best communication strategies, individual preferences, and positive behavioral supports.” (p. 2)</p>
<p>Choice and Quality of Life</p> <p>“BH is living in a residential program which imposes uniform measures and processes to all the people served in the home, as well as many cross-program rules and restrictions and an ‘across the board’ behavioral control system consisting of levels and “pause on activities” for violations. Infractions result in “disciplinary action” and loss of time with staff and activities. This uniform approach is not consistent with person-centered supports, driven by the unique individual identity and needs of the person.”</p>	<p>Choice and Quality of Life</p> <p>“Staff report, ‘From the point of his first meeting with us, he has set the pace for managing his life. He enjoys decision-making and makes most, if not all, daily decisions independently.’” (p. 3)</p> <p>“Mr. BH has independent access to the community and uses a cell phone with a blue tooth to stay in communication with his staff about his whereabouts.” (p. 3)</p> <p>Mr. BH’s “bedroom is reportedly decorated to his liking with a big flat screen TV, video game equipment, double bed, fishing equipment, and personalized decorations that allow him to feel comfortable in his bedroom. He is reportedly able to store his belongings where he prefers.” (p. 5)</p>
	<p>Alternatives</p>

	<p>“Mr. BH has expressed interest in living independently in an apartment. There is an option that has been discussed with him through Everyday Living to do a step down into a supported apartment.” (p. 5)</p> <p>“Mr. BH is reportedly very independent and could provide adequately for himself in many respects.” (p. 5)</p> <p>Mr. BH “really likes his current work crew [through Everyday Living]...” (p. 5)</p>
	<p>Provision of Adequate Services in Integrated Settings</p> <p>“Mr. BH has independent access to the community.” (p. 5)</p> <p>“Mr. BH takes Ebnet, a cab, for appointments.” (p. 6)</p>
	<p>Summary</p> <p>“...Mr. BH is living a life free from restraint and seclusion in the most integrated setting available to meet his needs at this time.” (p. 6)</p> <p>“Although Everyday Living should take steps to improve Mr. BH’s program plan to come into compliance with the Jensen Settlement Agreement, it is the opinion of this Examiner that many of the fundamental values of the settlement agreement are being upheld in Mr. BH’s daily life.” (p. 6)</p>

Name: PM

Mr. PM is a 25-year-old, never married, Caucasian male from Dakota County. At the time of this assessment, he was living at [REDACTED] House, Inc.

Court Monitor Community Compliance Review June 2014, p. 25-26	DHS Review January 12, 2015
	Individual and Family Involvement "Mr. PM's parents are his legal guardians and attend all meetings as active members of his support team." (p. 2) [They] "live a reasonable distance from [REDACTED] and he is reported to have a supportive, caring relationship with them." (p. 2)
Person Centered Principles and Processes "One of the most striking features about the group home where PM lives was the uniform controls and restrictions imposed on the people living there, and the lack of individualization of approach. These two central foci of the program drive out individualization, a person-centered approach, and responsive, flexible services which are tailored to his needs." "Very little of the State-wide efforts on person-centered and positive approaches have been invested in the staff of this program and the case manager, despite their significant experience and tenure. The Program Supervisor was unfamiliar with person-centered planning, positive behavior supports, positive approaches, and other best practices, which have become common knowledge over the last 20 years in our field."	Person Centered Principles and Processes "...Mr. PM does not currently have a Person Centered Plan (PCP) in place." (p. 2) "After dinner, there is usually an activity scheduled on the calendar, such as going to the local gym, library, a movie, playing basketball, or going for a walk if the weather is nice. The schedule is developed each Sunday by the individuals in the home. Suggestions are voted on and the majority vote determines the evening activity schedule for the following week." (p. 3) "Staff members at [REDACTED] House, Inc. are undergoing needed training to increase capacity in areas of Person-Centered Planning and Thinking that will be used to guide the approach utilized in the home and inform Mr. PM's program plan and life." (p. 5)

<p>Choice and Quality of Life</p> <p>“A second central theme within this service was a lack of focus on competency development and on designing this focus towards PM having the kind of life that he wants. Even when PM stated some concrete things he would like to get involved with (walking on a track, taking college courses, and getting a job), none are being addressed. Two of these ideas would have been fairly easy to implement, with a nominal amount of effort by the staff and an opportunity to demonstrate to PM that what he wants matters and will be taken seriously. Instead, it was disregarded, because ‘PM changes his mind every 5 minutes.’”</p> <p>“In contrast, PM’s goal plan areas are deficit-focused, de-personalized, and geared towards compliance and control rather than growth and forward movement. His “goal plans” are hygiene, exercise, cleaning his bedroom, and maintaining a level 2 – all geared towards compliance (i.e., getting PM to shower, clean his room, act right, and exercise) rather than develop talent, interests, and relationships. It should also be noted that these goals are nearly exactly the same as both of his housemates.”</p> <p>“His progress has steadily deteriorated in each of the three areas, yet little modification, revision, or adaptation has happened over the years. We would expect a great deal more after two years in terms of developmental support towards gaining competencies, moving</p>	<p>Choice and Quality of Life</p> <p>“Mr. PM reports he sits down with staff each week to plan activities he wants to do that week.” (p. 2-3)</p> <p>“Mr. PM’s shoes are no longer secured in a locked closet to prevent risk of elopement.” (p. 3)</p> <p>“Mr. PM feels his choices related to food are limited. He acknowledges he is hungry and sometimes the portions provided do not sustain him.” (p. 3)</p> <p>“Mr. PM has opportunities to decorate and personalize his bedroom.” (p. 3)</p> <p>“He admitted he would like more privacy and does not like having a bedroom right next to a housemate whom he does not prefer.” (p. 3)</p> <p>“He reports he gets along well with one of his housemates, but generally tries to avoid the other housemates. This reportedly interferes with his quality of life on occasion, given that he has to share space with someone he does not prefer to spend time with.” (p. 3)</p> <p>A Vulnerable Adult was filed in Dakota County by this Evaluator on 10/28/2014 after an email was received from Mr. PM’s mother, indicating ongoing reports of not food in the house.” (p. 4)</p> <p>“...Mr. PM appeared alert and responded appropriately to questions with no overt evidence of delayed processing, sedation, drooling or other side effects from prescribed medications.” (p. 3)⁴</p>
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⁴ Robert Haight, Pharm.D., *Psychopharmacology Consult*, n.d. “Based on my initial review and assessment, the patient’s medication treatment plan could be optimized

<p>forward, and building on PM's strengths. One might note that this paragraph is drawn nearly verbatim from the overview report on one of his housemates, which is no accident. This speaks to the level of de-personalization of services received by both young men."</p> <p>"They unabashedly administer a 10-level behavior management system across, not only all three people who live in the home, but also their entire system of community homes, and all those who live within it. This "level" system applies consequences and contingencies in response to a list of target behaviors exhibited by people they serve. It is institutional, antiquated, and a remnant of a system oriented towards control and compliance. They do recognize that the system is out of date, as they have renamed and re-conceptualized the system to be a "medal system" where people are assigned to a level associated with one of 15 possible semi-precious gemstones or precious metals. The result is that people are given opportunities to earn a plaque, t-shirt, lunch with a program supervisor, or a trip no more than 90 miles away from the program, for years of 'good behavior.'"</p> <p>"Perhaps the most extreme example was that the shoes of each person living in the home are kept locked in a closet, and must be requested from the staff. This restriction was reportedly to decrease the likelihood of people running away. The attached report details many such restrictions, and a huge list of contingencies that are often out of reach</p>	<p>There is "a 'medal program,' in which Mr. PM earns extra privileges based on safe behavior. Staff indicate the focus of this program is more positive and does not result in loss of privileges; however, it is largely the same for each of the individuals served in the home." (p. 2)</p>
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and should be combined with an appropriate behavioral plan at [REDACTED] House." At 3

<p>for PM. The restrictions and control are over both big and small aspects of his life; such things as snacks, snack time, surveillance by video, locked food, community activities, family visits, plastic utensils, bed time, and many more. Signs were posted everywhere reminding the residents in this home of the house rules, what they may not touch, where they may not go, and what they may not do.”</p>	
	<p>Alternatives</p> <p>“Alternatives housing options were being considered by Mr. PM’s parents, given that his parents, the county case manager, and the provider agreed that [REDACTED] house was no longer a good fit for Mr. PM’s needs and behavioral presentation.” (p. 4)</p> <p>“This Evaluator is in agreement that an alternative living environment should be pursued to better meet Mr. PM’s needs and assist him to continue to improve his quality of life.” (p. 5)</p> <p>“Mr. PM does not really like his current job and is slowly transitioning to work with his mom.” (p. 3)</p>
	<p>Provision of Adequate Services in Integrated Settings</p> <p>“Mr. PM reportedly has multiple opportunities every week to access the community with staff at his discretion. He enjoyed playing on two softball leagues this summer through Dakota Connections and Special Olympics.” (p. 4)</p> <p>“Mr. PM accesses community providers for medical and dental care.” (p. 4)</p>
	<p>Summary</p> <p>“...Mr. PM is living a life that is normally</p>

	<p>free from restraint and seclusion.” (p. 5)⁵</p> <p>[COURT MONITOR NOTE: DHS’ Psychopharmacology Consultation, which is not referenced in Dr. Torborg’s report, describes restraint use. Robert Haight, Pharm.D., <i>Psychopharmacology Consult</i>, n.d. “The patient has thirteen documented instances of emergency manual restraints since his admission to ██████ House in 2012. One instance of restraint was in the face-down, on the ground prone type.” At 3.)</p> <p>“...Mr. PM is living in an environment that is not a good fit for his needs.” (p. 5)</p>
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⁵ Robert Haight, Pharm.D., *Psychopharmacology Consult*, n.d. “The patient has thirteen documented instances of emergency manual restraints since his admission to ██████ House in 2012. One instance of restraint was in the face-down, on the ground prone type.” At 3.

Name: JA

Mr. JA JA is a [REDACTED]-year-old, never married, Caucasian male from Dakota County. He has lived at [REDACTED] house, Inc. since 4/3/2012.

Court Monitor Community Compliance Review June 2014, p. 27-28	DHS Review December 17, 2014
	<p>Individual and Family Involvement “Mr. JA’s adoptive parents live 15 minutes away from [REDACTED] House and he is reported to have a supportive, caring relationship with them.” (p. 2)</p> <p>“Staff report he is able to coordinate visits with his family at his own discretion.” (p. 2)</p>
<p>Person Centered Principles and Processes “One of the most striking features about the home where JA lives was the uniform controls and restrictions imposed on the people living there, and the lack of individualization of approach.”</p> <p>“These two central foci of the program drive out individualization, a person-centered approach, and responsive, flexible services which are tailored to JA’s needs.”</p> <p>“Perhaps the most extreme example was that the shoes of each person living in the home are kept locked in a closet, and must be requested from the staff. This restriction was reportedly to decrease the likelihood of people running away. The attached report details many such restrictions, and a huge list of contingencies that are often out of reach for JA.”</p> <p>“The restrictions and control are over both big and small aspects of JA’s life;</p>	<p>Person Centered Principles and Processes “...Mr. JA does not currently have a Person Centered Plan (PCP) in place.” (p. 2)</p> <p>“Mr. JA has reportedly had two incidents of Emergency Manual Restraint since his admission to [REDACTED] House.” (p. 5)</p> <p>“There is not a functional behavioral assessment in his file.” (p. 5)</p> <p>“...documentation provided from [REDACTED] House, Inc. reveals a predominantly risk management and problem-oriented approach to program planning...” (p. 2)</p>

<p>such things as snacks, snack time, surveillance by video, locked food, community activities, family visits, plastic utensils, bed time, which days JA may have juice, and many more. Signs were posted everywhere reminding the residents in this home of the house rules, what they may not touch, where they may not go, and what they may not do.”</p> <p>“Very little of the State-wide efforts on person-centered and positive approaches have been invested in the staff of this program and the case manager, despite their significant experience and tenure. The Program Supervisor was unfamiliar with person centered planning, positive behavior supports, positive approaches, and other best practices, which have become common knowledge over the last 20 years in our field.”</p>	
<p>Choice and Quality of Life</p> <p>“A second central theme in JA’s life was the lack of committed effort towards helping JA move forward and build on what he CAN do, what he WANTS to do, and what BUILDS competencies and skills. Instead, the strong focus is on compliance rather than growth and forward movement.”</p> <p>“His ‘goal plans’ are hygiene, exercise, cleaning his bedroom, and maintaining a level 2 – these are all geared towards compliance (i.e., getting JA to shower, clean his room, act right, and exercise) rather than develop talent, interests, and relationships. These goals are nearly exactly the same as both of his housemates. His progress has steadily deteriorated in all areas, and yet little modification, revision, or adaptation has happened over the years. We would</p>	<p>Choice and Quality of Life</p> <p>“...Mr. JA has daily opportunities to make choices about various aspects of his life, such as his schedule, routine, work, and activities he wants to engage in.” (p. 3)</p> <p>“Mr. JA’s shoes are no longer secured in a locked closet to prevent risk of elopement.” (p. 4)</p> <p>“He indicates he likes his home and could not think of anything he would change about his current living situation at this time.” (p. 4)</p> <p>“Mr. JA also has friends who he met while playing on two softball leagues this summer.” (p. 4)</p> <p>“Mr. JA has opportunities to decorate and personalize his bedroom. His bedroom reflects his preferences with a</p>

<p>expect a great deal more after two years in terms of developmental support towards gaining competencies, moving forward, and building on JA's strengths."</p> <p>"They unabashedly administer a 10-level behavior management system across not only all three people who live in the home, but also their entire system of community homes, and all those who live within it. This "level" system applies consequences and contingencies in response to a list of target behaviors exhibited by people they serve. It is institutional, antiquated, and a remnant of a system oriented towards control and compliance. They do recognize that the system is out of date, as they have renamed and re-conceptualized the system to be a "medal system", where people are assigned to a level associated with one of 15 possible semi-precious gemstones or precious metals. The result is that people are given opportunities to earn a plaque, t-shirt, lunch with a program supervisor, or a trip no more than 90 miles away from the program, for years of "good behavior."</p>	<p>large screen television, video game system, and his own bathroom." (p. 4)</p>
	<p>Alternatives</p> <p>"Mr. JA indicates he likes his home and could not think of anything he would change about his current living situation at this time." (p. 4)</p> <p>"Mr. JA does not really like his current job and is working with customized employment to explore options for a community job." (p. 3)</p>
<p>Provision of Adequate Services in Integrated Settings</p> <p>"The final major issue that is having a negative impact on JA's life is the significant and nearly complete</p>	<p>Provision of Adequate Services in Integrated Settings</p> <p>"Mr. JA accesses community providers for medical and mental health care." (p. 5)</p>

<p>segregation from typical people. He lives with other people with disabilities and behavioral problems. He spends his mornings at a sheltered workshop just for people with developmental disabilities and sexual behavior problems. He attends a day program in the afternoons for people with developmental disabilities and sexual behavior problems, and even his group therapy (which takes place in his living room under video surveillance) is made up of his house mates and residents of three other group homes. Surrounding JA with other people with similar disabilities and struggles embeds him in human service "clienthood" and surrounds him with a culture of behaviorally challenging people. In a community-based service, it is expected that rigorous efforts be expended towards social and physical integration, and this is not a part of the picture for JA."</p>	<p>"...Mr. JA appeared alert and responded appropriately to questions with no overt evidence of delayed processing, sedation, drooling, or other side effects from prescribed medications." (p. 4)</p>
	<p>Summary "...Mr. PM is living a life that is normally free from restraint and seclusion." (p. 6)</p>

Name: WW

Mr. WW is a ■-year-old, never married, Caucasian male from Hennepin County. His current residence is South Stevens, Minnesota State Operated Services in Richfield, MN.

<p>Court Monitor Community Compliance Review June 2014, p. 29-30</p>	<p>DHS Review January 27, 2015</p>
<p>Individual and Family Involvement "When he is with his family, he engages in typical activities with typical people in typical places and he enjoys a valued role within his family. However, at all other</p>	<p>Individual and Family Involvement "Both parents remain actively involved in his life." (p. 2) "His father attends all meetings and is a</p>

<p>times he has few interactions with people without disabilities and limited opportunities for inclusive participation in his community. He does not experience meaningful relationships (apart from staff and family) or typical valued social roles such as employee, volunteer or friend."</p>	<p>primary decision-maker for Mr. WW." (p. 2)</p> <p>"Mr. WW "is reported to love his family very much and talk about them frequently." (p. 2)</p>
<p>Person Centered Principles and Processes</p> <p>"WW's home was designed specifically to meet his needs at a time when other providers operating existing homes in the community were reportedly either unable or unwilling to identify or develop an appropriate residential opportunity for him."</p> <p>WW has a significant intellectual disability and a unique style of communication. He needs assistance in making decisions about most important things. His disability puts him at risk of others making all of the decisions in his life and thereby exerting a great deal of control over his life. The reviewers are confident that WW is being supported to make simpler choices in his home on a daily basis. The staff in his home are aware that it is important for him to make such choices and are skillful at assisting him to do so. It is also noted that WW parents want him to be involved in making major decisions and seek his input. However, it is unclear whether the decision makers are willing to think beyond and change the limitations of the system."</p>	<p>Person Centered Principles and Processes</p> <p>"...Mr. WW's Person-Centered Plan (PCP) has not been updated since he transitions from Minnesota Security Hospital-C." (p. 2)</p> <p>"David Blom [Community Support Services] is actively involved as a member of the treatment team to ensure best practices are utilized to enhance Mr. WW's quality of life." (p. 2)</p>
<p>Choice and Quality of Life</p> <p>"We were most impressed, at WW home, with his well trained and competent staff and with WW comfort in their presence."</p>	<p>Choice and Quality of Life</p> <p>"Mr. WW appears to have opportunities to express his choice regarding various aspects of his daily life, including but not limited to, his schedule, routine, job,</p>

<p>“Staff display positive attitudes and respect toward WW and illustrate the value of the training they had received, both prior to working with WW and ongoing through MSOCS, in person centered approaches and positive behavior supports.</p> <p>“They are clearly proud of how far WW has come in managing his own challenges and adjusting to his home in the community.”</p> <p>“They promote a caring, relaxed atmosphere in WW home and truly appreciate his strengths and gifts. WW case manager told reviewers in an interview that WW housemate moved in with him ‘by chance’ as he works with both of them and knew of this opportunity for both of them to benefit from ‘good, trained staff in a stable situation’”.</p>	<p>meals, bedtime, and activities he wants to engage in.” (p. 2)</p> <p>“Good communication between Mr. WW and staff is reportedly a primary reason for reduced chJAgging behavior.” (p. 2)</p> <p>“Staff estimate Mr. WW goes on community activities of his choice daily.” (p. 3)</p> <p>“Mr. WW reportedly loves his job at Chrestomathy, which he refers to as ‘school.’” (p. 3)</p> <p>“Years ago, Mr. WW’s father stated, ‘He just wants to be treated like a normal guy.’ Staff indicate that this is exactly how he is treated at South Stevens MSOCS.” (p. 3)</p>
<p>Alternatives</p> <p>“In WW day program, however, an antiquated readiness model persists as opposed to a more progressive supported employment approach that promotes the realization that everyone can work if given the necessary amount and type of support. The stated vision of his program is merely that within two years WW will be able to start doing piecework within the program and going out in the community. The activities in which WW is engaged during the day are unlikely to lead to anything more meaningful than that which currently takes up his day. In addition, the day program employs culturally inappropriate token reinforcers and negative consequences (i.e. sitting on the floor) to address challenging behaviors. Despite all of the strengths displayed by WW residential staff and</p>	<p>Alternatives</p> <p>“Alternative options for housing and work have not been considered.” (p. 3)</p> <p>“[Staff] state it would be detrimental to his progress to make any changes in work or home at this time.” (p. 3)</p> <p>“The ‘antiquated readiness model’ referred to by the court monitor appears to still be in place at this time.” (p. 4)</p>

<p>case manager, as well as the overall devotion of WW parents, there appears to be limited recognition of how little WW benefits from his day program and no coordinated effort to explore alternatives that would provide more community participation and real work opportunities for WW during the day.”</p>	
<p>Provision of Adequate Services in Integrated Settings “An overarching area of concern to reviewers is integration. WW is not integrated in his community, but rather just visits it. “</p>	<p>Provision of Adequate Services in Integrated Settings “Mr. WW accesses community providers for medial and dental care.” (p. 3) “At this point, he primarily performs jobs on site [at Chrestomathy] rather than going into the community.” (p. 4)</p>
	<p>Summary “...Mr. WW is living a life free from restraint and seclusion in the most integrated setting available to meet his needs at this time.” (p. 4) “...it is the opinion of this Interviewer that many of the fundamental values of the settlement agreement are being upheld in Mr. WW’s daily life.” (p. 4)</p>

Name: JJ

JJ is a ■-year-old, never-married, Caucasian female from St. Louis County who resides in a group home operated by Destiny Home Care Services in Bloomington, Minnesota.

Court Monitor Community Compliance Review June 2014, p. 31-32	DHS Review December 12, 2014
	Individual and Family Involvement “Ms. Jacobsen reports she feels ‘left out’ of family activities and she would like to see her family more. She acknowledges her lack of family involvement contributes to depression.” (p. 2)
	Person Centered Principles and Processes “Staff were unable to provide a copy of a Person-Centered Plan or Functional Behavioral Assessment upon request.” (p. 2)
Choice and Quality of Life “We visited JJ at her home in Bloomington, MN where she lives with 3 other people with disabilities.” “The house she lives in is devoid of decorations or personal possessions. There is not a table big enough to accommodate JJ and her housemates together. JJ has her own room where she spends most of her time. She does not own the furniture in her room, which appears to be old and mismatched. JJ has few personal possessions, which are mostly in a pile on the floor in the corner of her bedroom. She has an old television (which she watches quite a bit) that she told us only gets a few channels and “cuts in and out.” At the time of the visit she did not have sheets on her bed and she stated	Choice and Quality of Life “...Ms. JJ has very few opportunities for choices in her daily life.” (p. 2) Ms. JJ is unaware of a daily/weekly schedule for shopping, going out to eat, going to movies, or any other preferred community activity.” (p. 3) “Ms. JJ reports she is ‘so depressed,’ she put herself ‘on the waiting list for ECT.” (p. 3) “...she wants to move to another home. She does not have similar interests to her housemates and frequently had verbal altercations with these individuals.” (p. 3) “Ms. JJ spends most of her time

<p>she had been sleeping on the bare mattress with a blanket over her (even though it was very warm in the house). The Nursing Supervisor told us that JJ had taken the sheets off of her bed. Her room is dark.”</p> <p>“JJ has few opportunities to make choices and spends most of her day watching television in her room. This is difficult for her since she does not have glasses that correct her long distance vision so she cannot see the screen clearly. This should be resolved immediately if it hasn't been already.”</p> <p>“JJ is not involved in the daily routines and rhythms of the house such as planning menus, cooking and cleaning. The staff does everything in the house without inviting JJ's participation.”</p> <p>“It appears that the 3 other people who live in the house also mostly spend their days in their bedrooms. JJ did not choose her housemates, has very little contact with them and wants to move to a different group home so she can live with all men. JJ stated to us that she did not want to be with other people with disabilities.”</p> <p>“Currently she is sleeping most of the day.”</p> <p>“She does appear (as observed and stated by her sister) to have a good relationship with one of the personal care assistants in her home. Otherwise she does not appear to have much contact with staff in the house. She does reportedly call the owner of the business, [REDACTED], and he will sometimes take her out to places like Walmart.”</p>	<p>watching television.” (p. 3)</p> <p>“[Ms. JJ] states that her staff do not treat her right and are ‘too controlling and rude.’” (p. 3)</p> <p>“Ms. JJ has chronic medical conditions that require ongoing care, which interfere with her quality of life.” (p. 3)</p> <p>“Ms. JJ could not remember completing a Person-Centered Plan with staff or articulate any goals she is currently working on. Ms. JJ reports she is present for meetings but does not always feel like an active participant in the prioritization of goals.” (p. 2)</p> <p>“...Ms. JJ's treatment plan was revised most recently in July 2012. The information is problem-oriented and exemplifies a ‘power over’ approach to treatment planning. The treatment plan interventions resemble a risk management plan rather than a plan for building skills and assisting Ms. JJ to increase personal independence and well-being.” (p. 2)</p>
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<p>“The Nursing Supervisor, who supervises all staff in the house, appeared at times to be abrupt and annoyed with JJ.”</p> <p>“While JJ does have some goals listed in her record, the Nursing Supervisor told us that JJ’s main program emphasis is to comply with the staff expectations, rules of the house, and the requirements of her treatment plan.”</p> <p>“JJ has a number of health issues. She has 13 medical conditions and 4 mood/mental health disorders listed in her record.”</p> <p>“JJ’s health is of great concern to her family. Her sister said that JJ had gained 100 pounds while in Cambridge and Anoka. Her family is also concerned that JJ is sleeping so much and taking so much medication. The reviewers noted that JJ repeatedly fell asleep while in the middle of conversations. There is no stated plan to reduce the dosages of her medication or to eliminate any of them.”</p>	
<p>Alternatives</p> <p>“Per documentation and conversations with JJ, JJ has been requesting assistance in obtaining employment for years. She wants to work to make money to support herself. Yet it was not until May 27th, 2014 that she was assisted to see if she would qualify for a supported employment program.”</p>	<p>Alternatives</p> <p>“Ms. JJ is not currently employed.” (p. 4)</p> <p>“Now she is working through Ally, a job training program. She is going to start work with them after she tours the facility next week.” (p. 4)</p>
<p>Provision of Adequate Services in Integrated Settings</p> <p>“Except for contact with family, JJ leads a very segregated life. She knows no one in her community or even the neighbors. In fact, she has been told to stay away from the neighbors. JJ does go ‘out into the community’ which means that she goes to a store or restaurant of her choice</p>	<p>Provision of Adequate Services in Integrated Settings</p> <p>“She does not have friends in her neighborhood or community.” (p. 3)</p> <p>“Ms. JJ reportedly does not have independent access to the community. She is unaware of any plan for her to gain skills in this area, such as learning</p>

<p>approximately 1 time per week. These outings have not increased JJ's social network. JJ is continually monitored by staff."</p>	<p>to use the bus system or going to a community center for a class or activity." (p. 4)</p>
<p>Summary "It appears to reviewers that JJ is continually thought of in terms of deficits, not strengths and preferences. Her life is reflective of that thinking. JJ lives a very institutionalized lifestyle. It seems that she has moved from a big to a small institution. She has been fit into a preset template of a very traditional service system and is expected to conform. Except for her relationships with her family and one of her personal care assistants, JJ is leading a very lonely and isolated life. In short, her life lacks belonging, friendship, fun, and fulfillment."</p>	<p>Summary "...Ms. JJ is living in an environment that is not amenable to the requirements set forth by the Jensen Settlement Agreement. She does not have a person-centered plan, functional behavioral assessment, or transition plan in her life. She has very few options for choice in her daily life, has little to no opportunities for community integrations, and has few, if any, natural relationships and supports. Objective assessment and subjective report indicate her quality of life is very low." (p. 5)</p>

Name: EB

Mr. EB is a ■-year-old, never married, Caucasian male from Hennepin County. He was discharged from MSHS-Cambridge on December 3, 2013 to his current residence, South Stevens MSOCS in Richfield, Minnesota.

Court Monitor Community Compliance Review June 2014, p. 34-35	DHS Review December 11, 2014
	Individual and Family Involvement Mr. EB “would like to have more consistent and reliable visits with his father, grandma, and brothers.” (p. 2)
Person Centered Principles and Processes “We reviewed documentation in EB’s file and noted that he had an expansive person centered transition plan, which was developed with him prior to his move to his home in Richfield. This plan is detailed and offers a number of ideas of areas of interest that EB would like to explore to expand his lifestyle.” “The staff at the home know EB well and appreciate his talents and strengths. As well, the staff are trained in, and embrace, person centered thinking/approaches and the use of positive behavior supports. They appear to be committed to supporting EB to have a fuller lifestyle than he has had in the past. He is responding well to the staff’s expectations and support as is evidenced by the reduction of challenging behaviors.”	Person Centered Principles and Processes “...Mr. EB’s Person-Centered Plan (PCP) has not been updated since he transitioned from MSHS-C.” (p. 2) “Many of the individualized supports being provided to Mr. EB and the orientation to program planning utilized at MSOCS-South Stevens appear to demonstrate Person Centered Practices and emphasize opportunities for self-determination.” (p. 2)
Choice and Quality of Life “EB’s home is a good fit for him in many ways. It is physically attractive and comfortable. EB’s bedroom is large and he has decorated it with the things that reflect his interests such as sports memorabilia.”	Choice and Quality of Life “Mr. EB appears to have opportunities to express his choice regarding various aspects of his life, including but not limited to, his schedule, routine, job, meals, and activities he wants to

<p>“EB has the opportunity to make choices about many things in his home life such as schedules, routines, activities he wants to engage in, and food he wants to eat. However, the reviewers noted that EB did not choose his housemate, has nothing in common with him, and has not developed much of a relationship with him.”</p> <p>“The reviewers are concerned that EB is taking seven psychotropic medications and may be exhibiting what appear to be side effects of these medications. There seems to be no plan to reduce the dosages of these medications or to eventually discontinue any of them.”</p>	<p>engage in.” (p. 2)</p> <p>“Mr. EB has opportunities to decorate and personalize his home. His bedroom reflects his personal interest in sports...” (p. 3)</p> <p>“Mr. EB would still like to move to his own apartment, where staff are available on site, but not in his apartment. He feels he could be happier if he had his own space and did not have his housemate, with whom he often argues and feels he does not have anything in common.” (p. 3)</p> <p>“Mr. EB was observed to have a good rapport with his staff.” (p. 3)</p> <p>“Mr. EB would like to start a Self-Administration of Medication (SAM) program. At the time of this evaluation, the MSOCS [Minnesota State Operated Community Services] RN was scheduled to come out to the home to evaluate Mr. EB for a SAM program.” (p. 3)</p> <p>[COURT MONITOR NOTE: NO DISCUSSION OF MEDICATION SIDE EFFECTS]</p>
<p>Alternatives</p> <p>“Another area of EB’s life that is not being addressed adequately is employment.”</p> <p>“EB’s desire for a job was noted on his person centered profile and transition plan. Yet, it does not appear that his need for paid employment is being taken seriously.”</p>	<p>Alternatives</p> <p>“[Mr. EB] would like to move toward increased independence in his home and work settings in the future. At this point in time, his team has not actively considered this options and is looking for a longer period of stability in his supported living environment before considering alternative options.” (p. 3)</p> <p>“Mr. EB expressed dissatisfaction with his current work program...” (p. 3)</p>

	<p>“He found a job with Opportunity Partners (OP) through the Department of Employment, Community Based Work. He is currently in an evaluation phase to determine if he is a good candidate for the position ” (p. 3)</p>
<p>Provision of Adequate Services in Integrated Settings</p> <p>“Despite the positive elements of EB’s home, his needs to belong in the community of Richfield, be in valued social roles that are a good fit with his interests, and develop relationships with peers without disabilities are not being adequately addressed. EB does participate in activities in the community, but none of these activities have led to valued social roles. For example, EB goes shopping and eats out at restaurants, but he is not a member of a gym, member of a Catholic Church, member of a band, member of a cyclist club, etc. The lack of valued social roles in EB’s life directly impacts on his lack of belonging in Richfield. It is almost impossible to have a valued place in one’s community without being in valued social roles. As it is now, EB essentially ‘visits’ in the community rather than belonging in it.”</p> <p>“Except for relationships with family members, EB has no relationships with people who do not have disabilities. He has very little opportunity to meet peers without disabilities with whom he could share similar interests. Although EB physically lives in the community of Richfield, he spends almost all of his time in programs with other people with disabilities. The staff did not appear to be aware of the importance of the aforementioned needs. Furthermore, although the staff has had training in</p>	<p>Provision of Adequate Services in Integrated Settings</p> <p>“Staff estimates he goes on community activities daily, stating, ‘He’s barely ever here. He likes to stay busy.’” (p. 2)</p> <p>“He became friends with a barista at Caribou over the summer and enjoys going there for a cup of coffee and to socialize.” (p. 3)</p> <p>“Mr. EB has continued his friendship with a previous housemate. He contacts him by phone regularly and is estimated to visit this friend who lives in Cambridge, MN quarterly or so. They have similar interests and enjoy playing video games together. Mr. EB also reports that he plays basketball with a neighbor across the street sometimes.” (p. 3)</p> <p>“Mr. EB accesses community providers for medical and mental health care.” (p. 4)</p>

<p>person centered approaches, they do not seem to have knowledge or expertise in supporting EB to truly become part of his community.”</p>	
<p>Summary “EB left Cambridge with a good transition plan and high hopes for a better life. He moved into a typical neighborhood in the middle of a typical community. The staff in his home, and to some degree the staff in the day program, are positive and have embraced person centered thinking. However there are still large gaps in EB’s life and important needs that are not being addressed.”</p>	<p>Summary “...Mr. EB is living a life free from restraint and seclusion in the most integrated setting available to meet his needs at this time.” (p. 5)</p> <p>“Although MSOCS should update information in Mr. EB’s PCP and develop a Positive Behavioral Support Plan that incorporates a Functional Behavioral Assessment to come into compliance with the Jensen Settlement Agreement, it is the opinion of this Interviewer that many of the fundamental values of the settlement agreement are being upheld in Mr. EB’s daily life.” (p. 5)</p>