
Patricia Welsch, by her
father and natural guardian,
Richard Welsch, et al., on
behalf of herself and all
other persons similarly
situated,

Plaintiffs,

-vs-

Arthur Noot, et al.,

Defendants.

Paragraph 40(e)
FINDINGS OF FACT AND
RECOMMENDATIONS
4-72 Civil 451

On June 14, 1979, at 8:30 a.m., in the Minnesota State Capitol, an evidentiary hearing was held before Frank J. Madden, Court Appointed Monitor pursuant to Paragraph 40(e) of the Consent Decree in the above matter.

P. Kenneth Kohnstamm, Special Assistant Attorney General, Fourth Floor Centennial Office Building, St. Paul, Minnesota, appeared as counsel for the defendant, Department of Public Welfare. Michael Fargione, 222 Grain Exchange Building, 323 Fourth Avenue South, Minneapolis, Minnesota, appeared as counsel on behalf of the plaintiffs. The record remained open through August 1, 1979, for the submission of post-hearing memoranda.

The hearing was requested by the defendant Department of Public Welfare as a result of plaintiffs' prior District Court motion to amend the Consent Decree regarding Cambridge State Hospital. Plaintiffs had sought an Order to delete Paragraph 2(i)(iv) which permits the consideration of CETA employees in determining staff compliance and to amend Paragraph 14 to require that state complement positions be assigned to Cambridge State Hospital in a number sufficient to comply with the staffing provisions of the Decree.

STATEMENT OF ISSUES

1. What is the meaning of the term "full time equivalent positions" as used in Paragraph 14?
2. Should "intermittent" positions at Cambridge State

Hospital be counted in determining compliance with Paragraph 14?

3. Should CETA "public service workers" as described in Exhibit No. 17 (see Attachment A) be counted as direct care staff in compliance with Paragraphs 2 and 14?

PERTINENT PROVISIONS OF THE CONSENT DECREE

Paragraph 2(i)

The term 'direct care staff' as used in this Consent Decree includes only those persons employed at Cambridge State Hospital in Residential Program Services or Structured Program Services as human services technicians, human services technicians senior, human services specialists or human services specialists senior, subject to the following provisions:

Paragraph 2(i)(ii)

Other persons may be considered within the direct care staff for purposes of determining compliance with paragraph 4 and 7 of this Consent Decree if other portions of this Consent Decree specifically so provide.

Paragraph 2(i)(iv)

Persons employed as human services technicians pursuant to the Comprehensive Employment and Training Act may not be considered as part of the direct care staff until completion of a one month training, orientation and on-the-job training program unless the Chief Executive Officer of Cambridge State Hospital certifies in writing that the person so employed is qualified by reason of prior work experience, training, or ability (which must be described) to assume the responsibilities of that position without completion of all or a part of that program.

Paragraph 14

Effective May 1, 1978, the total complement assigned to Cambridge State Hospital must be 822.9 full-time equivalent positions consisting of the 621 state complement positions assigned as of the date of this Consent Decree, 60.9 state funded full-time equivalent positions assigned pursuant to paragraph 13, above, to meet the requirements of this Consent Decree, and such additional regular complement positions assigned pursuant to paragraph 13, above, or additional positions assigned pursuant to the Comprehensive Employment and Training Act as are necessary to meet that total; provided that up to eleven positions in addition to that total will be assigned to fulfill the requirements of paragraph 2(i)(iv). Thereafter the total number of positions may be reduced if reduction in the resident population at Cambridge State Hospital should require a lesser number of positions in order to meet the staffing requirements of this Consent Decree. If the direct care staff-resident ratios required by paragraph 4 are met with a lesser number of staff persons either prior to or after May 1, 1978, the total number of positions required by this paragraph may be reduced accordingly.

Based upon the proceedings herein, the Monitor makes the following:

FINDINGS OF FACT

1. Since the initial adoption of the Consent Decree in December, 1977, the total complement assigned to Cambridge State Hospital which according to Paragraph 14 was to be 822.9 full-time equivalent positions has fluctuated due to residential population decline and the number of residents qualifying for Structured Program Services.

2. On June 14, 1979, the parties agreed that Paragraph 14 required 814.6 full-time equivalent employees. (Transcript 36:9-13, see Attachment B).

3. On June 14, 1979, the defendant acknowledged that it was below the required number of full-time equivalent positions for the months of May and June, 1979. (Transcript 31:10-17, 49:6-8, 116:23-24).

4. On June 14, 1979, the parties agreed that on the basis of defendant's proposal following legislative action taken by the 1979 Minnesota Legislature, Cambridge State Hospital would have the necessary number of full-time equivalent positions required for July, 1979. (Transcript 37:13-21 - Line 18 should read 820 rather than 720).

5. The July, 1979, staffing allocation for Cambridge State Hospital would consist of 704 state complement positions, 29 paper positions and 10 overlap positions carried over from fiscal year 1979, 30 additional over complement positions added by the Department July 1, 1979, for a total of 773 positions. In addition, the Department has allocated two (2) intermittent positions and 79 CETA positions which are the basis of the dispute in the present proceedings.

6. The parties agreed that a full-time equivalent position means:

A position which is comparable in scope to a state complement position and for which funding is guaranteed.

7. The parties agreed that in determining the required number of full-time equivalent employees pursuant to Paragraph 14

that ~~positions would be~~ positions would be included. (Transcript 35:6-14).

8. An "intermittent" position by definition is a state line item which the Department subdivides, commonly into tenths, which thereby enables the Department to hire 10 individuals on one line item. (Transcript 84:4). Salaries in excess of one full-time position are funded through salary savings, (Transcript 84:10-13), and employees hired in the "intermittent" positions are required to meet the job specifications of regular state complement employees. (Transcript 84:23).

9. In December, 1977, when the Consent Decree was adopted, Cambridge State Hospital had two intermittent line items which it used and continued to use for the purpose of employment of 20 employees which were credited as two full-time equivalent positions. (Transcript 100:8).

10. In June, 1978, Mr. Dale Offerman, Chief Executive Officer for Cambridge State Hospital, reported to the Monitor that the loss of 73 CETA positions would be partially offset by the use of "two state FTE positions . . . converted to 17-20 intermittent positions." (Exhibit 14, Attachment C).

11. Since December, 1978, the number of individuals employed by intermittent line item has been reflected in the charts submitted by the Department in its monthly reports.

12. In December, 1977, when the Consent Decree was adopted, the parties acknowledged the inclusion of CETA employees in Paragraph 14 subject to the limitations pursuant to Paragraph 2(i)(iv). The initial complement of 152 CETA positions was subsequently reduced to 79 in June, 1978.

13. In the past approximately 85% of the CETA positions have been assigned to direct care positions (Residential or Structured Program Services) to assist in filling the approximate 400 direct care positions required at Cambridge State Hospital. (Attachment B, Transcript 122:11-13 and monthly reports "Positions Assigned by Organization").

14. The October, 1978, CETA program modifications, effective April 1, 1979,¹ established revised employment re-

quirements and salary limitations which directly impacted on the Department's capability to hire future CETA incumbents at Cambridge State Hospital. A summary of revised federal CETA requirements for Cambridge State Hospital is as follows:

	<u>Title II D</u>	<u>Title VI</u>
Persons Eligible	-15 weeks unemployed	-10 weeks unemployed
	-family income of 70% "lower living standard"	-family income of 100% "lower living standard"
	-no voluntary quit of job during past 6 months	-no voluntary quit of job during past 6 months
Hourly Wages	-\$3.19 average wage	-\$3.19 average wage*
	-no supplement	-10% supplement
	-minimum: \$2.90 or "prevailing rates... in similar occupations"	-minimum: \$2.90 or "prevailing rates... in similar occupations"
Maximum Term	-78 weeks	-78 weeks

15. As of June, 1979, out of the "old" CETA allocation of 79 positions the incumbent population of CETA employees at Cambridge State Hospital has declined to 52 with attrition factors indicating that the number will continue to substantially decrease.

16. Since the wage limitations in effect under the "new" CETA program (\$3.19 per hour or \$3.51 for Title VI including 10% supplement) are not likely to increase, there are not in existence direct care positions at Cambridge State Hospital that can be filled at this wage level. (Transcript 126: 9-23).

17. Since federal law requires that CETA employees receive wages comparable to those of state employees performing similar functions (Simmon's Deposition 22:12-15, 29 U.S.C.

1Title VI was recodified from 29 U.S.C. Sec. 961 et seq. (1975) to 29 U.S.C. Sec. 981 et seq. (1979). Title II, 29 U.S.C. Sec. 841 et seq. (1975), became Title II D, 29 U.S.C. Sec 853 et seq. (1979). New federal regulations for the CETA program were issued April 3, 1979. 44 Fed. Reg. 19990-20053.

* The Minnesota Balance of State office is using \$3.19 as a maximum rather than as an average hourly wage for Title VI projects. (Simmons' Deposition 19:13-25). Since this is not required by federal statute, the Department of Economic Security, which operates Balance of State, could alter this policy.

826 (b) (3) (1979)), "new" CETA employees at Cambridge State Hospital will not be able to perform all of the functions of current direct care positions. (Transcript 131:8-20, 126:9-23, Consent Decree Paragraph 2(1)).

18. As of June, 1979, the classification of "Public Service Worker" has been approved by Minnesota Department of Personnel in an attempt to qualify for CETA funding under the new law. (Exhibit 17, Attachment A and Transcript 130:10-14, 133:2-11).

19. The classification of "Public Service Worker" has never before been used at Cambridge State Hospital, (Transcript 123:8-11), and efforts to assign to this classification responsibilities which are routinely performed by direct care staff at Cambridge State Hospital has been rejected by the Department of Personnel as being "too broad in scope." (Transcript 128:6 - 129:18).

20. While the salary level for the CETA "Public Service Worker" classification has not been established, the salary level will be less than the current human services technician. The job description for the "Public Service Worker" while including some of the basic responsibilities of the human services technician, (Exhibit 17, Attachment A), excludes participation in the inter disciplinary team, assessing SPS participants, and passing medications. (Transcript 128:23-129:11).

Based upon the foregoing findings of fact, the Monitor makes the following:

CONCLUSIONS AND RECOMMENDATIONS

1. Full-time equivalent positions: A full-time equivalent position means

A position which is comparable in scope to a state complement position and ~~for which there is a state complement position~~

2. Intermittent line items: While Paragraph 14 does not expressly authorize the use of intermittent line items in the calculation of total state complement, the past practice of the parties substantiates the conclusion that intermittent

line items have been included on a limited basis as an implied inclusion in the calculation of Paragraph 14. Such a practice has been clearly enunciated in the monthly reports since December, 1978, as a consistent and reoccurring means to fulfill the obligations of the complement requirements for staffing. Therefore, rather than abolishing this practice, the usage of intermittent line items can be continued when necessary so long as the positions meet the definition of a "state complement position" stated above in that the Department guarantees sufficient funding and as long as the Department does not increase without justification of a substantial change in circumstances the present ~~circumstances~~

3. CETA Public Service positions: Paragraph 14, as originally adopted by the parties clearly contemplates the inclusion of CETA positions in the total state complement. However, the circumstances warranting such an inclusion have substantially changed with the enactment of statutory changes in the CETA program effective April 1, 1979. The "Public Service Worker" or a similar position was not contemplated by the parties to the Consent Decree and does not meet the requirements of a direct care position as set forth in Paragraph 2(i). While the inclusion of the position of "Public Service Worker" does not meet the requirements of direct care, the position or a similar CETA position may still qualify for inclusion in the total complement depending upon the Department's demonstrated ability to show flexibility in the current CETA requirements. Since it is seriously doubtful that such flexibility currently exists in the CETA program, the better solution would be for the Department to allocate the necessary number of positions from the recently funded legislative over complement provided to the Department. (See Department Exhibit A, Attachment D.)

Dated this 9th day of
October, 1979

Frank J. Madden
Monitor

TO : Pat Halvorsen, Personnel Director
Department of Public Welfare

DATE: 4-25-79

FROM : Bruce Potthoff
Personnel Director

PHONE: _____

SUBJECT: Public Service Workers - CETA Account, Attached

Under the CETA guideline, as interpreted by BNS, effective April 1, 1979, we will be able to pay those employees who are hired in the CETA Account on or after April 1, 1979, \$3.19 per hour.

With this in mind, the use of Public Service Workers in the CETA Account for present and future vacancies should be considered. Public Service Worker positions involve work typically performed by employees in the General Service of "C" schedule. However, these positions cannot be assigned the full range of duties typically expected for classification. The intent of Public Service Workers is to give unemployed individuals an opportunity to gain good work habits and develop job skills. Therefore, Public Service Workers is not compensated at the same level as regular "C" schedule classifications. The position is assigned to salary range 42F, \$3.09 per hour - \$3.60 per hour, and would be designated temporary, unclassified under the criteria of Rule 10.

Attached is a copy of a position description developed at Cambridge State Hospital for Public Service Workers to do elements of Human Services Technician work.

Your careful review and forwarding to the Minnesota State Department of Personnel for further consideration will be appreciated.

BP:mj

cc: Dale Offerman, Chief Executive Officer
Shirley Sundquist, Labor Relations Director, DPW
Paul Stembler, Deputy Director, Mental Health Bureau



AGENCY/DIVISION Department of Public Welfare/ Cambridge State Hospital		ACTIVITY	
CLASSIFICATION TITLE Public Service Worker	WORKING TITLE (if different) Public Service Worker	POSITION CONTROL NUMBER	
PREPARED BY Director Structured Program Services and Director Residential Program Services	PREVIOUS INCUMBENT	APPRAISAL PERIOD to	
EMPLOYEE'S SIGNATURE (this position description accurately reflects my current job)	DATE	SUPERVISOR'S SIGNATURE (this position description reflects the employee's current job)	DATE

POSITION PURPOSE

To assist in the development and implementation of program activities for assigned group of residents.

REPORTABILITY

Reports to: **Lead Worker or Household Manager**

Supervises: **No one**

DIMENSIONS

Budget: **Must work within the limits of the hospital and Unit budget in all areas.**

Clientele: **Severely/Profoundly retarded males and females**

Resp. No.	PRINCIPAL RESPONSIBILITIES, TASKS AND PERFORMANCE INDICATORS	Priority	% of Time	Discretion
1.	<p>1. To be responsible for assisting in the care, treatment and control of the residents so that each resident's identified dependancies will be reduced.</p> <ul style="list-style-type: none"> a. To assist in carrying out program plans as designated and report results to leadworker. b. To communicate with parents and friends when they visit to keep them updated on their resident's progress and needs. 			
2	<p>2. To implement training programs so that self-help skills are acquired.</p> <ul style="list-style-type: none"> a. To assist in the selection of self-help goals and objectives. b. To follow training procedures. c. To record and chart resident progress. 			
3.	<p>3. To implement training programs for residents so that they acquire new skills.</p> <ul style="list-style-type: none"> a. To implement prescribed curriculum procedures. b. To participate in the planning and implementation of special activities. 			
4	<p>4. To provide and maintain a safe atmosphere so that normal living patterns can be developed.</p> <ul style="list-style-type: none"> a. To assist in maintaining a positive atmosphere. b. To assist in maintaining a sanitary atmosphere. c. To report any unsafe conditions to lead worker immediately. 			
5	<p>5. To be aware of the health needs of the residents so that general health of the residents can be maintained.</p> <ul style="list-style-type: none"> a. To report to lead worker or unit RN any adverse symptoms exhibited. b. To perform basic procedures for which they have been prepared through supervised in-services. c. To escort residents to appointments. 			
6	<p>6. To provide a clean and healthy environment so that all applicable local, State and Federal rules, policies, procedures, guidelines are followed.</p> <ul style="list-style-type: none"> a. To maintain area in a safe, clean and orderly manner. b. To follow procedures related to the health and well being of the residents. 			
7	<p>7. To comply and successfully complete all in-service so as to acquire necessary knowledge.</p> <ul style="list-style-type: none"> a. To complete basic in-service. b. To complete agency in-service required. 			
8	<p>8. To be responsible for assisting in the care and treatment of residents assigned so that each resident's identified dependancies will be reduced.</p> <ul style="list-style-type: none"> a. To provide personal needs for the residents. b. To conduct meal programs in household dining room at specified times. c. To escort residents to classes. d. To provide community and recreational activities for the residents. 			

The Public Service Worker position at Cambridge State Hospital must provide the basic parent/teacher role in all aspects of programming to assigned group of residents. In this role, the Public Service Worker functions in the day to day operation as one of the resident contact individuals. The Public Service Worker is administratively responsible to the Senior HST or other assigned staff and must clearly communicate all pertinent resident information, i.e., problems, needs, program successes, to his/her supervisor.

The Public Service Worker's familiarity with his or her assigned residents' needs and his/her willingness to implement the determined program are extremely important factors in the success of any individual resident's program. In addition to his/her involvement with assigned residents, the Public Service Worker also provides services to other residents on his/her assigned household or program. These services include personal services (bathing, feeding, etc.) and often includes assisting in following through on resident programs for staff members who are absent.

The Public Service Worker must constantly be aware of the image he/she is projecting to visitors, relatives, staff and the general public. Good public relations skills must be utilized when dealing with people unfamiliar with unit procedure and policy.

Problems that confront the Public Service Worker are generally either of a programming or medical nature. Since the Public Service Worker must implement resident program, he/she may often be faced with situations for which he/she has no answer. These problems are referred to his/her supervisor. Medical situations that occur are generally referred to the unit nurse. The Public Service Worker must strive to make the program area or household more home-like, thereby "normalizing" the residents' life style. Often the Public Service Worker is able to use his/her imagination in doing this, but occasionally special problems must be referred to his/her supervisor. The Public Service Worker must be committed to be respectful of the residents' individual rights and confidentiality of all information.

The Public Service Worker has relative freedom in implementing his/her assigned residents' programs. All of the Public Service Worker's actions must be in accordance with the expressed policies and procedures as outlined in the Cambridge State Hospital Procedure Manual. He/She usually has daily contact with his/her supervisor and he/she should confer with the supervisor whenever he/she needs assistance or authority to act in a specific situation. He/She must be familiar with and realize that Department of Public Welfare Rule 34 governs the operation of the residential unit and overall programming.

ATTACHMENT B

Population 548

(Physically Handicapped: 250)
(SPS : 338)

Staff:

Residential Program Services

-Direct Care	346.4	
-Support	66.25	
-Supervisory, Professional, Semi-Prof.	69	(481.65)

Structured Program Services

-Direct Care	64.3	
-Support	3.5	
-Supervisory, Professional, Semi-Prof	52	(119.8)

Social Work/Case Aides

Dental	4	
Physicians	5	
R.N.	12	
Therapists/Assistants	13	(47.7)

N. Johnson	54.25	
R. Palmer	64	
B. Potthoff	8.5	
M. Stevens (clerical)	2	
Dr. Doebler	16.6	
L. Zimmerman	4	
B. Ogdahl	6.1	
D. Offerman	10	(165.45)

814.6

TO : Frank Madden, Monitor
Welsch vs. Dirkswager Consent Decree

DATE: June 27, 1978

FROM : Dale L. Offerman
Chief Executive Officer

PHONE: _____

Dale Offerman

SUBJECT:

Per our discussion of Friday, June 23, when you toured various program areas of our facility, I am summarizing the actions taken by the Department of Public Welfare and Cambridge State Hospital due to the crisis created by the lack of funding of CETA Title VI Special Project funds.

As you are aware, Cambridge State Hospital was informed by Jean Walburg of CETA Central Division on April 10, 1978 that all Special Project CETA VI funds would end on June 15, 1978. Please refer to the enclosed memo for specifics. In essence 115 Project VI positions would have to be terminated by June 15, 1978.

In light of this, the Department of Public Welfare requested that Cambridge State Hospital administration review its present use of CETA Project VI staff to determine how many of these could actually be cut without affecting staffing ratios per our agreement with the consent decree.

We responded that 57 CETA Project VI could be cut (36 from residential living services and 21 from structured program services). Under the following conditions:

[Two state FTE positions could be converted to 17-20 intermittent positions in order to cover vacation, sick leave, leave of absence in Structured Program Services.

Nine and a half ^{FTE} service workers which had been planned to be added to Residential Living Services in order to provide total coverage for 21 meals served a week would not be added.

Six janitorial staff which were planned to be added in order to cover for weekends and the increased work load due to installation of carpeting would not be added.

Twelve plus FTE positions could be or were already reallocated to other areas due to the closing of one household in Cottage 14 and the closure of the Y household in Cottage 8.

The population of Cambridge State Hospital had reduced from December, 1977 to June, 1978, therefore, less staff would be needed.

The Department of Public Welfare responded with the information that 30 existing Special Project CETA VI positions would continue to be funded from the balance of state allocation. It was determined that 16 FTE state line items would be re-allocated from Moose Lake State Hospital (12) and Anoka State Hospital (4). In addition 12 CETA VI positions were to be transferred from Moose Lake State Hospital (8) and Willmar State Hospital (4). Please refer to memorandum from Harvey G. Caldwell, Assistant Commissioner dated May 31, 1978 in the enclosures for further specifics.

On June 13, 1978 73 Special Project CETA VI employees were laid off. The reason for 73 lay-offs rather than 57 as mentioned previously was due to the adding of 16 state FTE's which forced additional non-certified CETA employees to be terminated.

Based on the Department of Public Welfare's request the Cambridge State Hospital administration re-examined the minimum number of staff needed to meet the direct care ratios based on an actual on duty count. The result of that study determined that an additional 12 direct care employees were needed to meet these ratios (8 direct care residential living service and 4 direct care structured program service). It was also felt that in order to meet the letter and spirit of the consent decree that 15.5 support staff should be added to the support complement. With the above in mind the following actions were taken by the Department of Public Welfare and Cambridge State Hospital:

Twelve FTE HST Direct Care paper line items were reallocated to Cambridge State Hospital. These positions came from Moose Lake State Hospital (4), Rochester State Hospital (3), St. Peter State Hospital (5). Additionally, six paper line item positions were reallocated for the support janitor positions. Brainerd State Hospital reallocated 4 and Hastings State Hospital reallocated 2.

Cambridge State Hospital was authorized to overlap 10 positions based on existing line items and/or vacancies and use salary savings to pay for these increases. The 10 positions would then be used for the hiring of the 9.5 food service workers needed to provide full support to household areas during meal time.

An additional point of information per our discussion on June 23 refers to the existing 37 CETA II positions. We were informed around the middle of June funds would run out for these 37 CETA II positions. However, our Personnel Office was allowed to convert these CETA II positions to CETA VI positions which is a separate program from Special Project CETA VI where 73 people were terminated from employment.

Due to the crisis generated by a shortage of funds and the CETA VI Special Project, Cambridge State Hospital will not be in compliance with the direct care ratios for the month of June. In addition the 15.5 support staff will not be employed during the month of June. However, given no additional changes in the CETA program or state line items Cambridge State Hospital should be in compliance with the direct care and support ratios for the month of July and ongoing periods of time. I hope that the above lucidly explains the situation and what actions have been taken by the Department of Public Welfare and Cambridge State Hospital to rectify the matter.

Thank you for your attention to the above.

DLO/bjo

Enclosures

TO : Arthur E. Noot

DATE: June 14, 1979

FROM : Wesley G. Restad

PHONE: 6-2701SUBJECT: Welsch vs. Noot

As you are aware, a hearing is scheduled for 8:30 AM on Thursday, June 14 with Frank Madden, monitor for the Welsch vs. Noot litigation. As I understood it, the plaintiffs are questioning our capability of honoring the Consent Decree as it pertains to staff because of the uncertainty of CETA funding and the fact the 1979 legislature did not authorize staff for our facilities to the extent deemed necessary by the plaintiffs. Last December we said we needed 287.5 positions to honor within our total system, the requirements of Welsch vs. Dirkswager. In February of this year we projected we needed 127.2 positions in FY '80 and 91.1 positions in FY '81 assuming we would receive CETA funding to the extent we would have 160.3 and 144.9 CETA positions in FY '80 and '81 respectively.

Relative to the above, I have met/talked with Ken Kohnstamm, Harvey Caldwell, Paul Stembler, Cynthia Whiteford, Dale Offerman, Lois Pollari, Don Buckner, Steve Ahlgren and yourself on one or more occasions, all with the view of attempting to outline a plan of action/commitment on our part in meeting the stipulations of the Court Decree. My efforts have all been in the context of developing a plan of action to meet Court requirements at Cambridge recognizing -- that as a Department, we are, in principle, attempting to honor like requirements at other facilities serving the developmentally disabled.

With the above in mind, the following is pertinent information you and others should have relative to the hearing scheduled for June 14.

- 1) Population: Population at Cambridge on this date is 547.
- 2) Overall Staff Needed: Given the above population, I am advised by Dale Offerman that overall, the facility needs 811.6 positions. I am assuming that staff of our Mental Health Bureau have reviewed Mr. Offerman's "staff needed plan" and are in accord/supportive of the staff projection Mr. Offerman has made -- 811.6.
- 3) Given information in 1 and 2, the following is our action plan relative to meeting the staff requirements.

NOTE: The 1979 legislature authorized a total staff complement for our facilities (hospitals) of 5427 positions. In addition 150 positions were

authorized provided we had salary savings to cover the costs of the positions in excess of the \$500,000 yearly appropriation authorized for this purpose. A copy of pertinent language from the 1979 appropriation bill is attached hereto. In this respect, in FY 79 we had a paper complement of 100 to recruit against.

- a) Continue the base of 703.9 authorized positions for Cambridge -- carried forward from FY '79.
- b) Given the \$500,000 appropriation provided by the 1979 legislature to go toward funding the 150 additional positions in FY '80, we are allocating 30 of the 150 to Cambridge -- projected annual salary costs for 30 positions is \$281,880 not including fringe benefits (minimum monthly salary for HST effective 7-1-79 will be \$783.00).
- c) In addition to a) and b), we permit Cambridge to utilize salary savings it generates to employee non-complement positions such as service workers. Currently, Cambridge has 29 paper, 10 overlap, and 2 intermittent, for a total of 41 non-complement positions which can properly be counted toward the full time equivalents on hand.

NOTE: Historically the hospital system has generated salary savings which have been used first to meet overtime holiday pay, shift differential, holiday pay, and career ladder costs. Once such obligations have been met, we have used salary savings to fund non-complement positions and to augment the legislative appropriation for consultant contracts. Additional obligations paid for from salary savings have been agreed on administratively via a priority setting process -- see attached summary chart which reflects past fiscal years salary savings experience. So as to insure funding of the additional positions authorized by the 1979 legislature, we are now administratively saying that funding of the additional positions will be our number 1 priority after overtime, shift differential, holiday pay and career ladder costs are met. In so stating, we will have to continue funding individual professional contracts (psychiatrists, podiatrists, doctors, etc.), some of which are paid for from salary savings. However, salary savings will not be used to underwrite costs of nonessential contracts, i.e., management studies. Given this type of commitment and based upon past salary savings experience, I believe we will be able to hire a substantial number of the 150 additional employees authorized by the legislature. The Mental Health Bureau will allocate to each campus their "fair

share" of the 150 positions. However, with the exception of the 30 positions assigned to Cambridge, there will be an administrative hold on filling these positions until there is reasonable certainty to insure funding from salary savings. The attached LAC request of June 11, 1979, pertains to the question of using salary savings in the matter outlined above.

- d) Given a), b) and c), we are still "short" 36.7 positions at Cambridge -- that is, to arrive at a total of 811.6. To cover this deficit at Cambridge, we intend to utilize CETA positions.

- As of May 10, 1979, Cambridge is utilizing -- actual -- 58 CETA positions (51 for Human Service Technicians, 6 Food Service Workers, 1 Social Worker position).

NOTE: The question of CETA funding apparently is an issue that needs some clarification. Given federal direction, the Department of Economic Security is saying that positions funded via CETA shall be funded at an average of \$3.19 per hour. In discussing the aforementioned with Mr. Buckner, Assistant Commissioner of the Department of Economic Security, he did advise that we could exceed \$3.19 for certain of our CETA employees if others received less than \$3.19, as long as the average for each CETA funded position did not exceed \$3.19 per hour. Further, recognizing the aforementioned constraint, he also advised that the Department of Economic Security is prepared to reaffirm the CETA dollar allocation given to-date for our system and could allocate up to \$450,000 additional CETA funds to us provided we would develop a plan whereby we in fact, would be spending the additional funds allocated -- the funding commitment is in the context of the balance of this federal fiscal year (through 9/30/79) -- see Mr. Buckner's letter of June 12, 1979 attached.

Given the above assurance from Mr. Buckner, I feel comfortable in saying that we can work out the details employee by employee for 36.7 positions when, in fact, we are using 58 CETA positions today. In this regard also for CETA Title VI funded positions, we are permitted to supplement CETA funding by 10% from other funds we may have available (salary savings potential). Further, the \$3.19 per hour limit does not apply to CETA employees hired prior to 4-1-79 who remain on the payroll. The aforementioned provides flexibility for us in using the 36.7 positions appropriately.

Arthur E. Noot
June 14, 1979
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Relative to the above in discussing the subject of CETA with Mr. Buckner as well as Lois Pollari, I am of the impression that the Federal Regulations do provide for optional funding limits depending upon how the CETA positions are viewed and actually utilized -- in short, the \$3.19 limitation may not necessarily apply to each and every CETA employee we put on the payroll -- depending again how we view/actually utilize the employee. In this regard since we have not had time to develop an implementation plan based on the information contained in Mr. Buckner's letter of 6-12-79, I recommend that you instruct our attorney to request from the monitor time to finalize this component of the plan.

In summary, although there may be a need for further detail, such as more specifics in regard to how the CETA positions can/will be utilized, I believe what is outlined in the proceeding paragraphs reflects, within the resources available to us, a positive administrative effort on our part and state government in general to address the specifics of the Court Decree. Further, I view what is outlined in this memorandum as an appropriate course of action to follow through 9-30-79. During the period 9-15-79 to 9-30-79 I believe the commitment we are now making should again be reviewed and reaffirmed or modified as appropriate. This recommendation is made recognizing that 1) there will probably be some modification in resident population at Cambridge and at other facilities 2) we should be able by that date to be more precise in projecting anticipated salary savings for FY '80, and 3) October 1 starts a new fiscal year and with it there may be changes as it pertains to CETA authorization for Minnesota.

June 14, 1979

I have reviewed the summary memorandum and concur with the action plan outlined.


ARTHUR E. NOOT
Commissioner

WGR/kim

LEGISLATIVE ADVISORY COMMISSION REQUEST

(See Reverse Side For Guidelines)

DEPT/AGENCY Public Welfare DATE June 11, 1979
 AMOUNT REQUESTED \$500,000 PERSONNEL REQUESTED - 0 -
 TITLE Contingent for State Institution
 APPROPRIATION ACCOUNT NO. 50090:00-10 F.Y. 79
 F.Y.

BRIEF SUMMARY OF REQUEST:

Request the transfer of \$500,000 from the state institutions contingent fund to the Department of Public Welfare state hospital salary account in order to pay worker's compensation and unemployment compensation billings for Fiscal Year 1979

I certify that this request for funds represents an emergency situation for which there is no other remedy; that this matter has not previously been considered by either the House Appropriations or Senate Finance Committees; that every effort has been made to fund with existing resources and that the request is submitted accordance with the guidelines and instructions on the reverse side

DEPARTMENT HEAD _____ DATE: _____

DETAILED DESCRIPTION AND JUSTIFICATION (See Reverse Side For Items To Be Included)

The Department of Public Welfare will have insufficient funds to pay all of the FY 1979 workers compensation and unemployment compensation billings. The total estimated billings will be \$1,675,000.00. There will be \$1,175,000.00 in available balances in the various state hospital and state nursing home accounts to apply against these billings leaving a shortfall of \$500,000.00. Salary savings which would have been available to satisfy these billings were necessary to fund the 100 overcomplement positions authorized by the legislature - Laws of 1977, Chapter 453, Section 2, Subdivision 4.

The only alternative to this request is to make payment ^{of} these charges out of Fiscal Year 1980 salary funds. This will have a very serious negative effect on the departments ability to comply with the consent decree signed in the Welsh vs. Noot lawsuit.

The specific request is to transfer \$500,000 from the contingent for state institutions account (50090:00-10) to the state hospital salary account (50000:60-10) expenditure class 09.

1 The moneys received under the state and
2 local fiscal assistance act, known as
3 general revenue sharing, shall be
4 deposited in the medical assistance
5 account and the state appropriation
6 shall be reduced by a like amount.

7 The appropriation made in laws 1977,
8 Chapter 453, Section 2, Subdivision 3
9 for general assistance may be
10 transferred to the medical assistance
11 appropriation in fiscal year 1979.

12 General Assistance and General Assistance

13 Medical Care

14 \$46,991,000 \$52,607,000

15 Income Maintenance Support

16 \$10,168,900 \$10,123,200

17 If the appropriation for aid to
18 families with dependent children,
19 catastrophic health insurance, medical
20 assistance, Minnesota supplemental
21 assistance, general assistance and
22 general assistance medical care is
23 insufficient for either year, the
24 appropriation for the other year shall
25 be available by direction of the
26 governor after consulting with the
27 legislative advisory commission.

28 Subd. 5. Mental Health 151,300,700 152,440,500

29 Total Approved Complement - 6113

30 State Hospitals - 5427

31 The complement for state hospitals
32 includes up to 15 new positions for the
33 program for emotionally disturbed to be
34 located at Willmar state hospital.

35 The commissioner of public welfare is
36 authorized to fill up to 150 the first
37 year and 120 the second year human
38 services technician positions in the
39 state hospitals in addition to the
40 approved complement specified in this
41 subdivision for the purpose of
42 alleviating recruitment delays in
43 direct patient care, as salary savings
44 become available to fund such positions.

45 All new positions granted in this
46 subdivision for hospitals shall be
47 direct patient care positions.

48 In addition to salary savings, \$500,000
49 per year is appropriated in the salary
50 account for the state hospitals for
51 this purpose.