

IMPLEMENTING THE WELSCH V NOOT CONSENT DECREE AT THE COUNTY LEVEL

- I. County and Human Service Boards' Responsibilities for Mentally Retarded Persons
- II. County and Human Service Boards' Responsibilities in the Implementation of Welsch v Noot
- III. Available Resources for Developing Community Services

Prepared by  
Mental Retardation Division  
Department of Public Welfare  
for  
Region #9 Conference

I. COUNTY AND HUMAN SERVICE BOARDS' RESPONSIBILITIES FOR MENTALLY  
RETARDED PERSONS

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RESPONSIBILITY

<u>A. Case Management</u>	<u>AUTHORITY</u>
1. Case Finding	M.S. 252A.14 Rule 185
2. Diagnosis	M.S. 252A.02-04 Rule 185
3. Assessment of Need	M.S. 252A.02-04 Rule 185
4. Develop Ind. Service Plans	M.S. 253A.15 M.S. 253A.16 Rule 185
5. Arrange/Provide Service Needed	M.S. 252A.15 M.S. 253A Rule 185
6. Evaluation of Ind. Service Plan	M.S. 252A.16 Rule 185
7. Annual Report or Wards	M.S. 252.16
<u>B. Planning</u>	
1. Develop & Submit CSSA Plan Biennially	M.S. 256E
a. Ensure opportunity for involvement of LSSA, DD, SH, service providers advocacy	M.S. 245.68 Rule 185
b. Take lead in planning and development of services not available	M.S. 245.68 Rule 185
c. Identify services available in and outside geographic area for its MR population	M.S. 245.68 Rule 185
d. Identify in priority need order service not available to its MR population	M.S. 245.68 Rule 185
e. Provide and arrange for service within CSSA grant	M.S. 252A.01 M.S. 252A.15 Rule 185
2. Submit a Letter of Recommendation Regarding New or Changing MR Services	M.S. 252.28 Rule 185
<u>C. Evaluation</u>	
1. Evaluation of each county social service program on basis of measurable program objectives	M.S. 256E
2. Annual report on the effectiveness of each CSSA program in the county	M.S. 256E.11
<u>D. Payment for Services</u>	
	M.S. 252.11 M.S. 245.21 M.S. 256E.09 Rule 185

II. COUNTY AND HUMAN SERVICE BOARDS' RESPONSIBILITIES IN THE IMPLEMENTATION OF WELSCH V. NOOT CONSENT DECREE

Six provisions are listed in the Consent Decree which require county and human service boards' participation and cooperation. They are the following: (a) the reduction of mentally retarded persons residing in state hospitals, (b) admissions to state hospitals, (c) individual assessments, (d) discharge planning, (e) post-placement evaluations, and (f) development of and placement in community programs.

A. Reduction of the Number of Mentally Retarded Persons in State Hospitals Hospitals (Paragraphs 12-15)

Given the past community development efforts of the counties, it is anticipated that the counties will continue their program development efforts of community-based services. It is anticipated that each county will reduce its state hospital utilization levels (see attached utilization levels for counties located in Region 9) and arrange services for those to be discharged from state hospitals. Note, the term "resident population" includes all mentally retarded persons residing at the state hospital, as well as persons assigned to the hospitals who are absent due to visits, camping, medical leave, provisional discharge or who have a comparable temporary absence which would not require a formal readmission to permit the person to return to the hospital.

B. Admissions to State Hospitals (Paragraphs 16-20)

One obvious method for counties to reduce levels is to limit their admissions. The Consent Decree states that the "county has responsibility for locating an appropriate community placement, or, in the event that none exists, insuring that such placement is developed". With respect to children, there are more specific limitations. Effective January 1, 1982, appropriate community placements must be located or developed so that a child will not be in residence at a state hospital for a period in excess of one year. If the county determines that appropriate community services do not exist and cannot be developed within one year, the "county may request, no later than the ninth month of institutionalization, an extension of time from the monitor". Paragraphs 18 and 20 of the Consent Decree state:

Paragraph 18

If the county determines that appropriate community services cannot be developed within the one year period due to the specialized care needs of the child and unavailability of support services or staff in the community, the county may request, no later than the ninth month of institutionalization, an extension of time from the monitor. For those children covered by the exception stated in paragraph 17, the county has until September 30, 1982, to request an extension of time from the monitor. The monitor shall notify the Commissioner and counsel for the plaintiffs when an extension of time is requested. The county shall provide evidence regarding: 1) the child's service needs, 2) why those needs cannot currently be met in the community, 3) the program that is being provided to the child at the institution, and 4) the efforts that have been made to locate or develop community services, including efforts to work with several counties to establish a specialized regional community services.

Paragraph 20

An extension of time for development of community services shall be granted only if no appropriate community alternatives exist or can be developed within the required time limit. The monitor or hearing officer shall recommend whatever additional steps are necessary to expedite the development of appropriate community services for the child. In addition, the monitor may recommend changes in the program being provided at the institution if such are found necessary to insure an appropriate program of habilitation. Recommendations of the monitor are appealable to the Court pursuant to paragraph 95 (h) of this Decree.

C. Individual Assessments (Paragraph 21)

On an annual basis, an assessment must be conducted on each resident in an institution to identify the type of community placement which is needed by each resident and the scope of services which the resident will need when the resident is discharged to a community placement. The Consent Decree specifies that this assessment must be made in terms of actual needs of the resident rather than in terms of services presently available. The "county and the Commissioner shall use these assessments in planning for and implementing the reduction in institutional population and in developing plans for new residential and nonresidential community based services". These annual assessments are to be conducted by the resident interdisciplinary team with the participating county social worker as a member of that team.

D. Discharge Plans (Paragraphs 22-23)

Provisions of Minn. Stat. 252A Mental Retardation Protection Act, Minn. Stat. 253A Hospitalization and Commitment Act; Minn. Stat. S256E Community Social Services Act; and DPW Rule 185 establishes the responsibility for establishing a continuing plan of aftercare services for mentally retarded persons with the county social service agency. The Consent Decree further specifies the type of discharge plan which must be prepared for each resident who is to move from a state hospital to a community placement. The discharge plan must include: (a) the type of residential setting, (b) the type of developmental or work program, (c) the scope of support services which shall be provided to meet the resident's needs as defined in the assessment, and (d) an individual habilitation plan (individual program plan) consistent with DPW Rule 185. Furthermore, the Consent Decree requires that persons who are discharged from state hospitals must be placed in community programs which appropriately meet their individual needs. A preference is stated for placement in small facilities, with a population of 16 or fewer or, if larger, a facility which has living units of no more than six persons.

E. Post-Placement Evaluation (Paragraph 22e)

Within 60 days after placement the county social worker shall visit the resident to assess whether she or he is being provided the programs and services required in the discharge plan. The county social worker shall provide to the state hospital and the community facility a written evaluation of the appropriateness of the program and services being

provided. This post-placement evaluation must occur within 60 days and may take place in 30 days in conjunction with the requirements of DPW Rule 185, C.2a through C.2c(5). Counties are to mail these post-placement evaluations to the state hospital from which the client was discharged.

Within ten working days of receipt of the written post-placement evaluation, the state hospital shall mail a copy of this evaluation to the U.S. District Court Monitor, the Department of Public Welfare and counsel for the plaintiffs. If the responsible county has not provided the post-placement evaluation, the state hospital shall report to the Monitor, the Department of Public Welfare and counsel for the plaintiffs by letter within five days after the 75th day after placement.

F. Development of and Placement in Community Programs (Paragraphs 24-26)

The Mental Retardation Program Division of the Department of Public Welfare has developed a Six-Year Plan for the systematic reduction of state hospital populations to no more than 1,850 by 1987. As a part of this plan, budget requests necessary to implement this plan have been submitted to the 1981 Legislature. A copy of that plan was distributed as an addendum to Request Bulletin #81-6. All placement decisions must be made according to Rule 185, C.3.e. (p.6) regarding placement in licensed residential facilities.

Region #9  
 County Utilization of State Hospital Services for the Mentally Retarded Persons

Region #9 Counties	Census 1980	State Hospital Utilization 6/30/80	1987 Net Reduction	1987 Utilization Level	Biennial Net Reduction			Biennial Utilization Levels		
					83	87	85	83	87	85
Blue Earth	52,302	54	24	30	8	8	8	46	38	30
Brown	28,629	35	16	19	6	5	5	29	24	19
Faribault	19,713	See Martin County -	-	-	-	-	-	-	-	-
LeSueur	23,450	25	11	14	4	4	3	21	17	14
Martin	24,669	62	29	33	10	10	9	52	42	33
Nicollet	26,926	13	2	11	1	1	0	12	11	11
Sibley	16,452	15	6	9	2	2	2	13	11	9
Waseca	18,450	15	6	9	2	2	2	13	11	9
Watonwan	12,328	See Martin County -	-	-	-	-	-	-	-	-
<u>Region Total</u>	222,919	219	94	125	33	32	29	186	154	125

III. AVAILABLE RESOURCES FOR DEVELOPING COMMUNITY SERVICES IN ORDER TO IMPLEMENT THE WELSCH V. NOOT CONSENT DECREE

A. Residential

1. Community ICF/MRs (Title XIX)

A net reduction of approximately 800 mentally retarded people from state hospitals will require the modification or development of new community-based residential placements. The people who will be released are typically more severely handicapped than are those who are presently residing in the community and will, in most instances, need ICF/MR placement. However, many of them are expected to replace people who will move into Semi-Independent Living Services. Consequently, the necessary expansion of ICF/MR capacity (i.e., new development) will be approximately 400 rather than 800 beds over the next six years. Since the majority of state hospital residents are presently on medical assistance (Title XIX), the relocation of these residents into community-based ICF/MRs will not be a substantial increase on the medical assistance budget.

2. Construction Grants-in-Aid

M.S. §252.30 authorizes grants to nonprofit organizations or local units of government to pay up to 25% of the cost of constructing, purchasing or remodeling small community residential facilities for mentally retarded and cerebral palsied persons to live in a home-like atmosphere near their families. The expansion of community facilities provides an increased capacity to meet the need expected to arise from state hospital discharges. With the movement into the community of more severely handicapped residents, and with movement into Semi-Independent Living of the less seriously handicapped, some existing facilities will also require remodeling and/or program modifications to accommodate physical, sensory, and behavioral disabilities. Similar to the development of a new facility, remodeling is reimbursable under ICF/MR rates, but 'up-front' or 'seed money' is needed to prevent delays in admitting referrals from the state hospitals. The 1981 Legislature appropriated grants for approximately 14 facilities at \$20,000 per facility for the 1982-83 biennium:

FY 1982	\$277,400
FY 1983	\$277,400

For further information contact:

Mary Kudla  
DPW - Mental Retardation Division  
4th Floor, Centennial Building  
St. Paul, MN 55155  
(612)296-3829

3. Semi-Independent Living Services (SILS)

4.

The SILS program under Rule 18 is important as the state moves toward a broader community-based system of services. As more and more mentally retarded people become ready to master the skills that will enable them to function in a more independent manner, the setting and service that will equip them with those skills must be made available. The purpose of SILS is to provide services to mentally retarded persons whose dependency requires services above the level of food and lodging, but who needs less than 24-hour-per-day care or supervision as provided in Rule 34 ICF/MRs. The 1981 Legislature appropriated under SILS and Rule 23 funds for approximated 300 additional SILS slots:

FY 1982:	\$846,400
FY 1983:	\$1,496,400

For further information contact:

Bob Meyer  
DPW-Mental Retardation Division  
4th Floor, Centennial Building  
St. Paul, MN 55155  
(612)296-2147

B. Day Program

1. Developmental Achievement Services

It is anticipated that most state hospital residents who are discharged will require developmental achievement services. In addition, a number of graduates from public schools will require this service\* Presently, many DAC participants are capable of movement upward into work activity if such services were available. Increases of work activity and sheltered work is also available (see II b); and attainment of this objective will enable enough movement through DAC service so that an increase of DAC capacity can occur. CSSA, under which DAC services are funded to each county, will receive a 6% increase in state money in each year of the 1982-83 biennium.

2. Work Activity and Sheltered Employment Stations

Under an interagency agreement with the Division of Vocational Rehabilitation in the Department of Economic Security, 300 work activity and sheltered employment stations are funded for the biennium. They represent levels of occupation, at some wage, above that of DACs and are a critical statewide need to provide higher levels of development for those DAC participants who are ready for this upward movement. It is estimated that movement of DAC participants into work activity and sheltered employment together with movement of others into competitive employment, will enable more clients to move into less restrictive day programs. The 1981 Legislature appropriated to the Division of Vocational Rehabilitation funds for 300 stations, along with additional monies for vocational evaluations, to be used for mentally retarded persons coming from DACs or state hospitals.



C. Support

1. Family Subsidy

This program has grown from 50 families in 1978 to 105 families in 1980. It assists families to keep their mentally retarded children at home and it thereby reduces or postpones placement out of the family home. It is an early intervention program that enables a child to live in the least restrictive and most normal setting at a minimal cost to the state and counties. The Legislature has appropriated enough funds to add 45 new families in FY 1982 and 50 more families in FY 1983.

FY 1982 \$398,200

FY 1983 \$525,800

For further information contact:

Shirley Bengtson  
DPW-Mental Retardation Division  
4th Floor, Centennial Building  
St. Paul, MN 55155  
(612)296-2168

2. Technical Assistance

To assist in implementing all phases of the development of community-based services for mentally retarded persons in order to carry out the Six-Year Mental Retardation Plan and the Welsch V. Noot Consent Decree, technical assistance is available through the Mental Retardation Division.

For further information contact:

DPW-Mental Retardation Division  
4th Floor, Centennial Building St.  
Paul, MN 55155

(612)296-2682