
WELSCH CONSENT DECREE

REPORT OF THE MONITOR
TO THE UNITED STATES DISTRICT COURT,
DISTRICT OF MINNESOTA, FOURTH DIVISION

FOURTH SEMIANNUAL REPORT

FEBRUARY, 1984

UNITED STATES DISTRICT COURT

DISTRICT OF MINNESOTA

FOURTH DIVISION

PATRICIA WELSCH, BY HER FATHER AND
NATURAL GUARDIAN, RICHARD WELSCH,
ET AL., ON BEHALF OF HERSELF AND
ALL OTHER PERSONS SIMILARLY SITUATED
(PLAINTIFFS)

v.

LEONARD W. LEVINE, ET AL.
(DEFENDANTS)

4-72 CIVIL 451

HARRY H. MACLAUGHLIN
UNITED STATES DISTRICT JUDGE

FOURTH SEMIANNUAL REPORT
OFFICE OF THE MONITOR FOR
THE WELSCH CONSENT DECREE

LYLE D. WRAY, Ph.D, MONITOR
TRUDY KOROSCHETZ, SECRETARY

FEBRUARY, 1984

TABLE OF CONTENTS

VOLUME ONE

	PAGE
I. INTRODUCTION	1
A. Description of Monitoring Activities	1
B. Overview of Developments	6
II. REDUCTION IN STATE HOSPITAL POPULATION	8
A. Population Reduction	8
B. Population Reduction for Identifiable Groups	14
C. Admissions	14
D. Special Procedures for Admission of Children	16
E. Assessment of Community Placement Needs	19
F. Discharge Plans and Review of Program Appropriateness	20
G. Placement in Community Programs	21
H. Appeals from Community Placement Decisions	26
I. Technical Assistance	26
J. Licensors	28
III. STAFF REQUIREMENTS FOR STATE HOSPITALS	30
A. Staffing Requirements - General	30
B. Cambridge State Hospital Staffing Levels	31
C. In-Service Training for Staff	32
D. Consultant Services	32
E. Recruiting Difficulties	33

VOLUME ONE CONTINUED

	Page
IV. REQUIREMENTS FOR INDIVIDUAL RESIDENTS	34
A. Individual Habilitation Plans	34
B. Individually Adapted Wheelchairs	35
C. Mechanical Restraint, Separation, and Seclusion	36
D. Serious Injuries and Deaths	38
E. Limitations on Use of Major Tranquilizers	40
V. PHYSICAL PLANT MODIFICATIONS	41
A. Privacy Modifications	41
B. Carpeting and Air Conditioning	41
C. Alterations at Fergus Falls State Hospital	41
VI. LEGISLATIVE PROPOSALS	43
VII. SUMMARY AND RECOMMENDATIONS	44

VOLUME TWO

DOCUMENTATION RELATED TO THE WELSCH CONSENT DECREE

VOLUME THREE

COMPLIANCE ISSUES SUMMARY AT JANUARY 1, 1984

LIST OF TABLES

	Page
1. Consent Decree Compliance Issues Status at January 1, 1984.	2
2. Formal Notices of Non-Compliance Issued Under Paragraph 95 from September 1980 Through January 1, 1984.	4
3. Mental Retardation Programs: Minnesota State Hospital Census for 1983.	9
4. Admissions to State Hospitals: January to November, 1983.	15
5. Number of State Hospital Residents Served in "Trainable" Mentally Retarded Student Classrooms in Minnesota in 1982 and 1983.	18
6. Community Placements by Size of Residential Facility in 1982 and 1983.	25
7. Discharges from Minnesota's State Hospitals in 1983.	25
8. State Hospital Staffing Compliance for Residential Direct Care Staff: Filled Positions as a Percentage of Required Positions for 1982 and 1983.	30
9. State Hospital Staff Positions Filled as a Percentage of Staff Positions Required for Residential and Day Program Staff.	31
10. Minnesota State Hospitals: Injuries to Residents in 1983.	39

LIST OF FIGURES

	Page
1. Consent Decree Compliance Issues at January 1, 1984.	2
2. Minnesota State Hospital Census in Mental Retardation Programs from September 1980 Through December, 1983.	8
3. Minnesota State Hospital Census Compared for January and December, 1983.	10
4. Growth in Minnesota's Community ICF/MR Capacity and Facilities from 1978 to 1983.	11
5. Minnesota Residential Services: Percentage of Funds Received and Percentage of Clients Served in 1983.	12
6. Distribution of Size of Intermediate Care Facility Placements of Class Members: 1982 and 1983 Compared in Percentage of Placements Per Size Category.	24
7. Total Minutes Per Month of Restraint, Seclusion, and Separation at Brainerd State Hospital in 1983.	37
8. Total Minutes Per Month of Restraint, Seclusion, and Separation at Faribault State Hospital in 1983.	37

I. INTRODUCTION

A. Description of Compliance Monitoring Activities.

This is the fourth report submitted in accordance with Paragraph 95C of the 1980 Consent Decree. It is designed as a summary of actions taken to fulfill the functions of monitor and to indicate the extent to which the defendants have acted in compliance with the Decree. This report covers primarily the period of time from January 1, 1983 through October 31, 1983.

Reports of monthly activities and expenditures by the monitor are sent regularly to both parties and to members of the Advisory Group to the monitor. These reports for January through November, 1983 are included in Volume 2 of this report. Actions taken to fulfill the responsibilities of monitor are listed in each report in the areas of investigations of allegations of non-compliance, site visits to state hospitals and community programs, analysis of state hospital reports and documents from other parts of the Department of Public Welfare, and informal and formal compliance actions under the Decree.

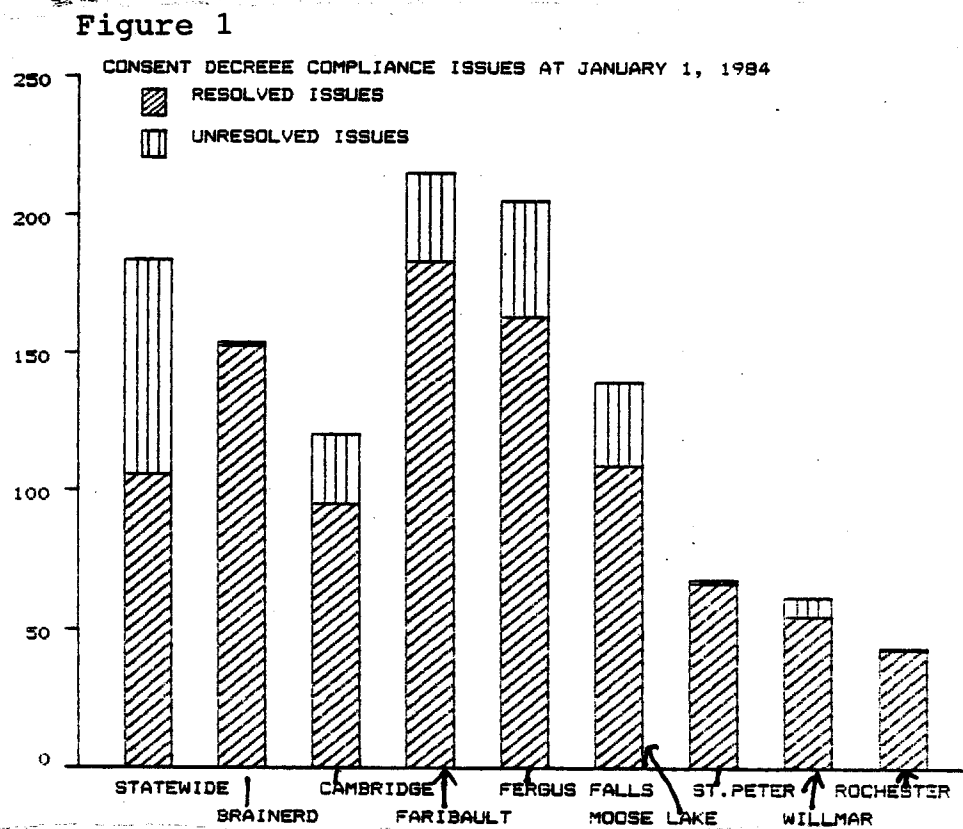
This report is organized again in a fashion corresponding to that of the 1980 Consent Decree. Informal recommendations for implementation of the Decree are offered at the conclusion of the report.

A total of 1,190 compliance issues had been raised at January 1, 1984 with 224 of these issues unresolved. A summary of the current status of compliance at each state hospital and with regard to statewide and community issues is shown in Table 1.

Table 1. Consent Decree Compliance Issues at January 1, 1984

State Hospital	Resolved	Outstanding	Total
Statewide and Community	105	79	184
Brainerd	152	2	154
Cambridge	94	26	120
Faribault	182	33	215
Fergus Falls	162	43	205
Moose Lake	108	31	139
St. Peter	66	2	68
Willmar	54	8	62
Rochester	43	-	43
Total	966	224	1,190

Figure 1 shows the number of issues at each state hospital in Minnesota.



From September 1980 to January 1, 1984 fifteen formal notices of non-compliance were issued by the monitor under Paragraph 95. Table 2 summarizes these notices. The adequacy of community living arrangements and day programs for class members appears to be an increasingly salient issue.

Volume 3 of this report contains a detailed compilation of unresolved issues at the statewide and community levels and at each of the state hospitals. For each issue an action has been requested or indicated which would resolve the compliance issue or make the resolution possible.

The process of addressing unresolved issues has continued as described in the previous report to the Court. A memorandum outlining that process is contained in Volume 2 of this report. The compliance working group established at the initiative of the Department of Public Welfare has not met since the last report to the Court. It was agreed that prior to considering issues involving statewide and community impacts that the monitor would work with each state hospital in an attempt to resolve issues at that level. This initial process has been completed and a summary of issues at the statewide and community level has been sent to the Department of Public Welfare for their response.

The second stage in attempting to resolve compliance issues, working to resolve statewide issues, is underway. The Department of Public Welfare recently has retained a consultant to assist in responding to unresolved compliance issues.

Table 2. Formal Notices of Non-Compliance Under Paragraph 95:
1980-1983

(The table lists the date of notice, the provision involved, a description of the issue and actions taken and current status of the issue)

-
1. January 23, 1981. Provisions 89B and 89F. Legislative proposals regarding additional capacity in programs; removal of incentive for state hospital placement. Monitor hearing held for the first two non-compliance notices on March 13, 1981. Court Order issued January 13, 1982.
 2. February 13, 1981. Provisions 37 and 39. State hospital staff funding. Monitor hearing on March 13, 1981. Monitor findings of fact, conclusions, and recommendations May 21, 1981. Court motion. Combined with fourth notice of non-compliance.
 3. April 7, 1981. Provision 23. Community placement evaluations overdue by 90 days or more. Resolved May 21, 1981 without a hearing.
 4. July 6, 1981. Provisions 37 and 39. State hospital staff funding. Monitor hearing November 3, 1981. Monitor findings of fact, conclusions, and recommendations December 7, 1981. Court motion. Court order issued March 23, 1982.
 5. October 6, 1981. Provisions 24 and 26. Provision of appropriate day and residential program for class member Bruce L. Monitor hearing February 5, 1982. Monitor findings of fact, conclusions, and recommendations April 7 and May 11, 1982. Court motion. Court order issued July 14, 1982. Department of Public Welfare instructional bulletin indicating compliance, 1983. Resolved.
 6. April 7, 1982. Provisions 37 and 63. Moratorium on the hiring of behavior analysts in state hospital. Resolved without a hearing April 22, 1983.
 7. May 25, 1982. Provisions 24 and 26. Provision of appropriate day and residential program to Ruth K. Court motion. Court order issued December 17, 1982. Department of Public Welfare instructional bulletin indicating compliance, 1983. Resolved.
 8. June 22, 1982. Provision 64. Provision of wheelchair to Mary Lou L. Resolved without a hearing, 1982.
 9. September 16, 1982. Provision 30. Provision of six staff members in the Mental Retardation Division of the Department of Public Welfare. Not resolved.

(continued)

Table 2 Continued

-
10. September 16, 1982. Provisions 24 and 26. Provision of appropriate day and residential services to class members Lynne A., Robert P., and James R. Court motion. Court order November 1, 1982. Department of Public Welfare instructional bulletin indicating compliance, 1983. Resolved.
11. October 20, 1982. Provisions 24 and 26. Provision of appropriate day and residential services to three class members at Woodhaven, Columbia, Missouri. Monitor hearing held. Resolved.
12. November 18, 1982. Provision 35. Determination of the number of licensors required to meet Decree terms. Pending.
13. December 29, 1982. Provisions 24 and 26. Provision of appropriate day and residential programs to class member John B. Following Minnesota Supreme Court Decision of January 21, 1983, Ramsey County indicated in writing intention to pay in full as indicated in individual plan for service. Resolved.
14. March 16, 1983. Provision 24. Provision of appropriate residential programs and services to eight class members residing at Hawthorne House in Itasca County. Pending.
15. November 23, 1983. Provisions 24 and 26. Provision of appropriate residential and day program to Beatrice J. Pending.

B. Overview of Developments.

A number of developments have occurred in this reporting period with direct or indirect impact upon compliance with the Consent Decree. Those addressed here are: issuance of a quality assurance plan, proposals for welfare reform and state hospital reorganization, policy analysis papers on the Consent Decree, and a process of recommitment of state hospital residents.

Quality Assurance Plan. In response to allegations of abuse and neglect in state hospitals, the Department of Public Welfare issued a report in September, 1983 entitled: Quality Assurance Plan for State Facilities. Twenty-nine steps on quality assurance were announced in that report in the areas of program development, personnel management, Welsch v. Levine Consent Decree monitoring, client protection and advocacy, and program management. An executive summary of that report is included in Volume 2.

Welfare Reform and State Hospital Reorganization. In November, 1983, a proposal was made by Commissioner Leonard Levine to move more aggressively toward less restrictive placements for mentally retarded persons. Subsequently, a proposal was made in December to reorganize the mental health components of state hospitals into three regions. That plan was subsequently put on hold for further public consultation. The text of a speech by the Commissioner and several news items on reorganization are contained in Volume 2.

Policy Analysis on the Welsch Consent Decree. The Minnesota Developmental Disabilities Program, State Planning Agency, continued publication of policy analysis papers. In this

reporting period, papers published included an analysis of formal and informal training for personnel working in the area of developmental disabilities in Minnesota, training needs identified by staff and management of residential and day programs, an updated analysis of factors contributing to the cost of Intermediate Care Facilities for Mentally Retarded persons (ICF/MR), a statewide summary of sheltered employment programs, an update of financial, client, and program status of Developmental Achievement Centers, and an analysis of the effects of the family subsidy program on families with a developmentally disabled child.

Recommitment Process. Minnesota Statute 253B, the Minnesota Commitment Act of 1982, requires that persons committed previously for an indeterminate period must have their commitment reviewed by the committing court prior to February 1, 1984. The Association for Retarded Citizens of Minnesota estimated that 1,000 persons were affected statewide by this requirement. A Citizen Advocacy project has been set up to assist parents or guardians in this process, or to train citizens to become advocates if no parent or guardian is involved. A memorandum on the recommitment process is included in Volume 2 of this report.

II. REDUCTION IN STATE HOSPITAL POPULATION.

A. POPULATION REDUCTION

Summary of Decree Requirements. (Paragraphs 12, 14, and 15).

A binding maximum target of 2,375 residents of state hospitals in mental retardation programs was set for July, 1983.

Compliance Status. In 1983 the census in state hospitals in mental retardation programs declined from 2,329 in January to 2,211 in December. Figure 2 shows the downward population trend in state hospitals from September 1980 through December 1983.

Figure 2

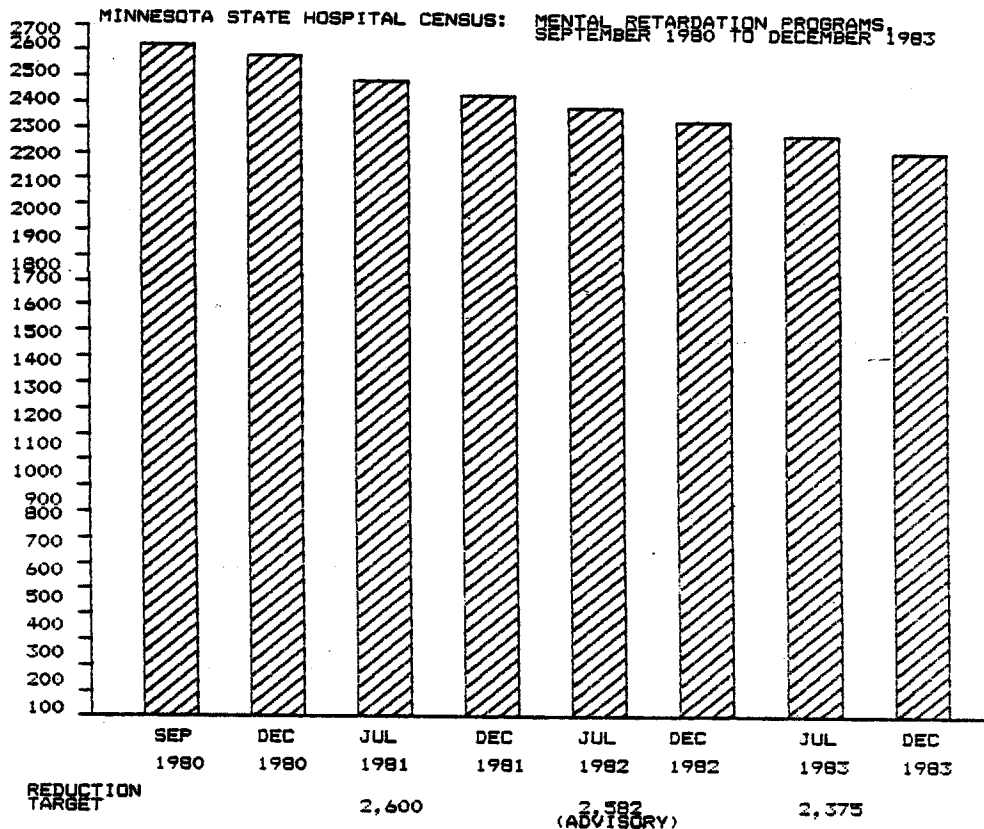


Table 3 shows the census of each state hospital each month of 1983.

Table 3

Mental Retardation Programs
Minnesota State Hospital Census: 1983

State Hospital	JAN.	FEB.	MAR.	APRIL	MAY	JUNE	JULY	AUG.	SEPT.	OCT.	NOV.	DEC.		CHANGE FOR YEAR	PERCENT
Brainerd	320	319	314	315	310	309	313	309	308	305	303	302		- 18	5.6
MN Learning Center	42	41	43	42	39	44	40	38	32	32	32	37		- 5	11.9
Cambridge	509	505	500	498	496	497	494	489	487	485	485	485*		- 24	4.7
Faribault	753	751	751	753	748	745	743	738	732	726	717	714		- 39	5.2
Fergus Falls	252	249	251	246	244	245	248	244	235	234	233	230		- 22	8.7
Moose Lake	114	114	113	113	113	109	110	110	110	109	108	110		- 4	3.5
St. Peter	181	181	181	182	181	186	175	173	171	170	172	172		- 9	5.0
Willmar	158	157	159	157	159	158	159	158	159	157	158	161		+ 3	+1.9
TOTAL	2329	2317	2312	2306	2290	2293	2282	2259	2234	2218	2208	2211		-118	5.1

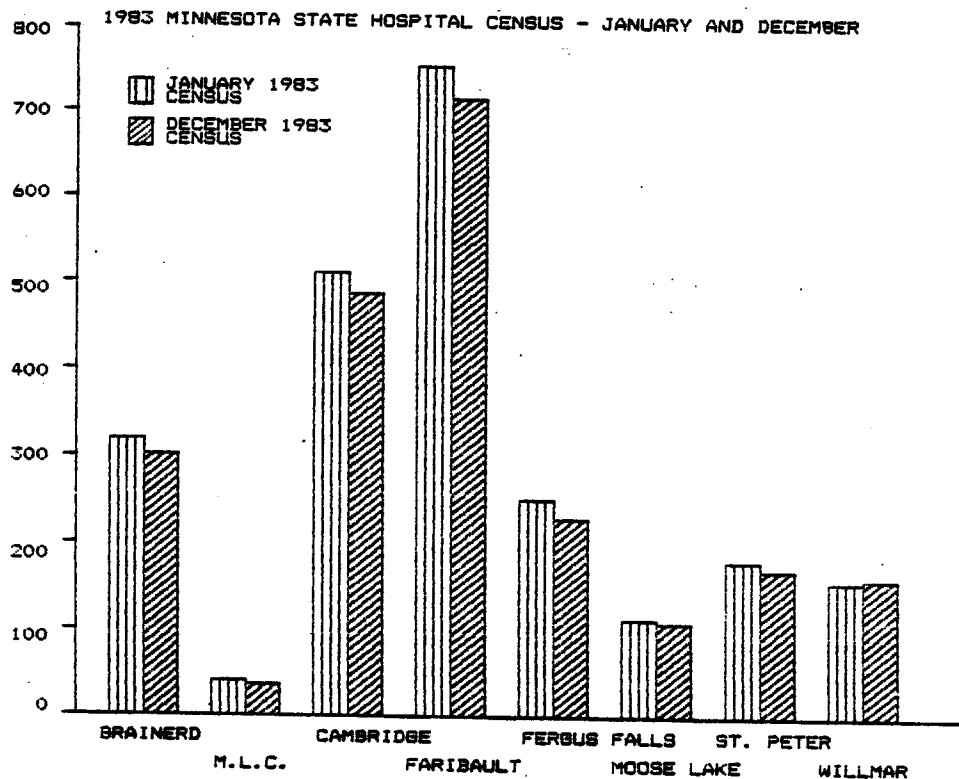
* Projected

The census reduction of 118 in 1983 was greater than the census reduction of 97 found in 1982. Meeting the population reduction requirement over the term of the Consent Decree requires an average net reduction of 10 persons per month. The rate in 1983 was very close to that level. The "cushion" by which the Department is ahead of population reduction targets has declined from 41 at the end of 1982 to 14 at the end of 1983 with respect to July targets of the following year.

The largest overall reduction was found at Faribault State Hospital with a net decrease of 39 persons. Willmar State Hospital showed a slight increase of 3 persons during 1983. Figure 3 compares the census for each facility in January and

December of 1983.

Figure 3



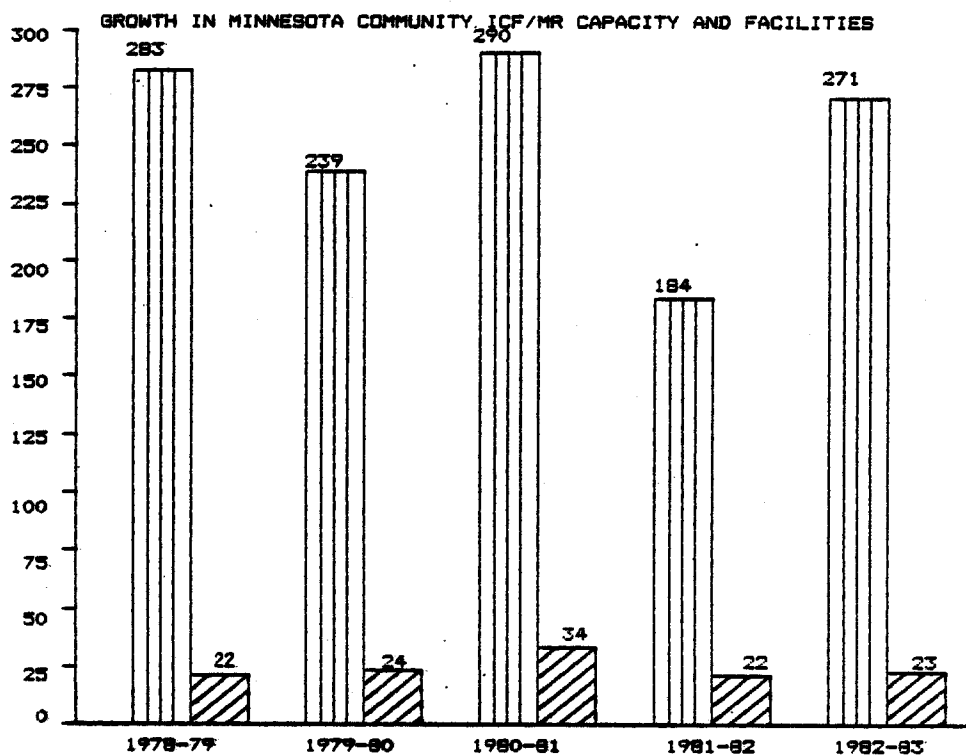
NOTE: IN MULTI-SERVICE FACILITIES, CENSUS REFERS ONLY TO PERSONS IN MENTAL RETARDATION PROGRAM.

Actions Taken. One major development in 1983 which will potentially exert a strong effect on the population reductions from state hospitals was the imposition of a moratorium on new group homes. Minnesota Statutes, section 252.28, subdivision 1, was amended to mandate a moratorium on the development of Intermediate Care Facilities for Mentally Retarded Persons (ICF/MR). It states in part: "In no event shall the total of certified intermediate care beds for mentally retarded persons in community facilities and state hospitals exceed 7,500 beds as of July 1, 1983, and 7,000 beds as of July 1, 1986..." At July 1, 1983 there were according to Department of Public Welfare Instructional Bulletin 83-65 a total of 7,447 ICF/MR beds in

Minnesota's community residential facilities and state hospitals.

Since most persons leaving state hospitals and not returning to their families have been placed into these Intermediate Care Facilities, the imposition of a cap of 7,500 beds would in isolation constitute a major barrier to community placement of persons from state hospitals. Figure 4 shows that the number of new ICF/MR places created in the community each year since 1978 has varied between 184 and 290.

Figure 4

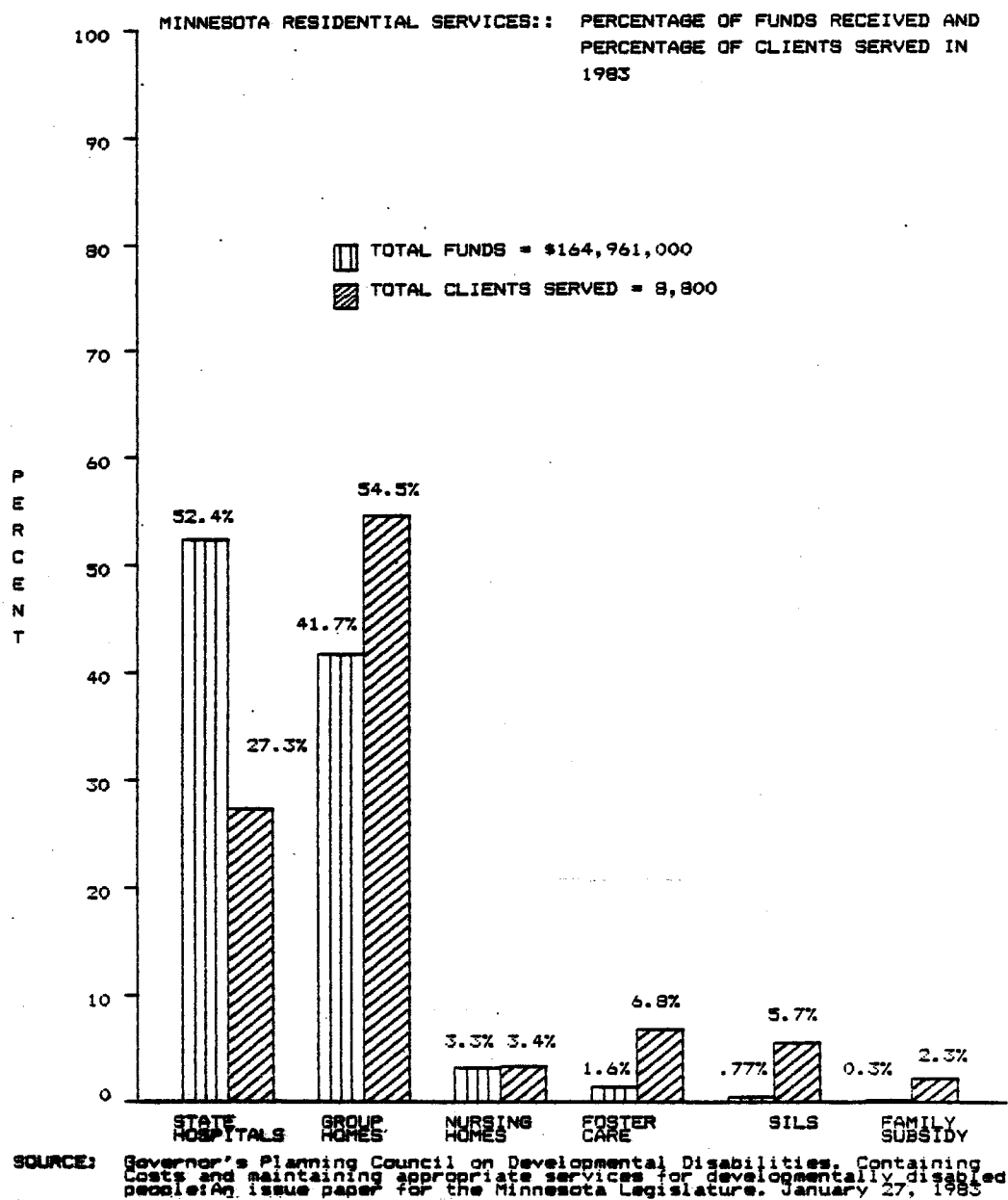


SOURCE: TRENDS IN SOCIAL SERVICES, DEPARTMENT OF PUBLIC WELFARE

A second major development has been legislative approval to pursue a Home and Community Based Services Waiver under the Medicaid program which would permit the use of funds under Title XIX of the Social Security Act to be used for supports to families and community services in addition to state hospital and group home programs. Figure 5 indicates that institutional

services in Minnesota serve 27.3% of mentally retarded persons receiving residential services but receive 52.4% of the 164 million dollars expended on residential services for mentally retarded persons.

Figure 5



At December 1983, 47 states had requested waivers to address the needs of mentally retarded persons, mental health clients and elderly persons (Source: Word From Washington, Volume 14, Number

12, December 1983 p. 22). The most popular service was case management or service coordination followed by respite care and adult day services.

The development of services in Minnesota under the waiver involves diverting persons from state hospital or group home admission by supporting a variety of other options such as parent training, and developmental training homes - a variety of highly supported foster care. Continued success in meeting community placement targets from state hospitals in light of the moratorium of Intermediate Care Facilities will be in large part dependent upon the adequacy of efforts to launch an array of waived services. A copy of the draft of the waiver application presented for public review is included in Volume 2.

Consultants and residential and day program recipients of McKnight Foundation funds were retained by the Department of Welfare to make recommendations on implementation of the waiver in Minnesota. A summary of the recommendations made is contained in Volume 2.

On August 26, 1983 the Department of Public Welfare issued a progress report on county utilization of state hospitals for mentally retarded persons as Informational Bulletin 83-67. From December 31, 1980 through June 30, 1983 most counties have shown a decreased utilization of state hospitals but ten counties (Becker, Clearwater, Cook, Meeker, Rock, Sibley, Traverse, Washington, Wright, and Yellow Medicine) have increased their utilization of state hospitals for mentally retarded persons.

B. POPULATION REDUCTION FOR IDENTIFIABLE GROUPS.

Summary of Decree Requirement. (Paragraph 13) No identifiable group of state hospital residents, such as physically handicapped persons or persons with severe behavior problems, shall be excluded from community placement although the defendants are not held to any quota among such groups.

Compliance Status. This requirement does not impose a binding quota or target upon the Department of Public Welfare. No analysis of this requirement was completed for this report.

C. ADMISSIONS

Summary of Decree Requirements. (Paragraph 16; Reporting Order Paragraph 5B). Mentally retarded persons shall be admitted to a state hospital only when no appropriate community placement is available. The county has the responsibility of locating a placement or ensuring that a community placement is developed. A statement of the reasons why no community placement was made is to be provided upon state hospital admission.

Compliance Status. At January 1, 1984 6 issues remained unresolved at the statewide level and 11 remained unresolved at all state hospitals. Most of the compliance issues dealt with the adequacy with which alternatives were explored or developed prior to state hospital placement by counties. A serious problem remains since there is no firm linkage apparent in each county between the determination that a person is at risk of institutional placement and the full exploration of alternative service options such as the strengthening of current community living arrangements or the development of new community living

arrangements.

Admissions to state hospitals for the first 11 months of 1983 are summarized in Table 4.

Table 4

Mental Retardation Programs
Minnesota State Hospital Admissions: January - November, 1983

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	1983
Brainerd													
Non-respite	0	0	0	2	1	0	1	1	0	0	0	NA	5
Respite	1	0	2	0	1	7	3	2	0	0	0	0	16
Brainerd Total	1	0	2	2	2	7	4	3	0	0	0	0	21
MN Learning Ctr													
Non-respite	4	7	7	4	2	10	1	4	4	4	8		55
Respite	0	0	0	0	0	0	0	0	0	0	0	0	0
MN Lrng Ctr Total	4	7	7	4	2	10	1	4	4	4	8		55
Cambridge													
Non-respite	6	0	1	1	2	2	1	0	2	2	1		18
Respite	1	1	1	1	0	2	4	0	0	0	0	0	10
Cambridge Total	7	1	2	2	2	4	5	0	2	2	1		28
Faribault													
Non-respite	1	2	3	1	2	0	0	3	0	1	0		13
Respite	0	1	1	0	2	1	2	0	1	1	1		10
Faribault Total	1	3	4	1	4	1	2	3	1	2	1		23
Fergus Falls													
Non-respite	1	1	1	1	2	3	3	1	0	1	1		15
Respite	2	3	1	1	0	2	3	0	1	3	0		16
Fergus Falls Total	3	4	2	2	2	5	6	1	1	4	1		31
Moose Lake													
Non-respite	0	0	0	0	1	1	0	0	0	0	2	NA	4
Respite	0	0	0	0	0	0	0	0	0	0	0	0	0
Moose Lake Total	0	0	0	0	1	1	0	0	0	0	2		4
St. Peter													
Non-respite	1	1	1	1	3	2	0	0	1	2	0		12
Respite	0	1	2	0	4	1	3	3	1	2	4		21
St. Peter Total	1	2	3	1	7	3	3	3	2	4	4		33
Willmar													
Non-respite	0	2	0	1	2	1	1	1	0	1	1		10
Respite	2	2	0	4	1	3	3	9	2	2	2		30
Willmar Total	2	4	0	5	3	4	4	10	2	3	3		40

Total Admissions January - November, 1983

Non-respite	132
Respite	103

Total Admissions 235

Compared with the first eleven months of 1982, the number of total admissions reported is up from 200 to 235 for 1983. Admissions for respite care reported almost doubled from 58 to 103 but commitments and other types of admissions reported fell slightly from 142 to 132. In summary, overall admissions increased in 1983 with many of those being for parental respite for children.

Recommendation. In the previous report it was recommended that the Commissioner of Public Welfare, in relation to his overall responsibility to take such measures as are necessary to effect the terms of the Consent Decree, develop a mechanism for ensuring that the needs of individuals at risk of institutionalization and the community placement needs of individuals remaining in state hospitals are firmly linked to county plans which are presently required for services to mentally retarded persons. The community placement requirements of each class member in state hospitals have been specified to fulfill the requirements of Paragraph 21 of the Consent Decree. That recommendation has not been effected to date. No notice of action in relation to that recommendation has been received.

In light of policies described below on children's admissions to state hospitals, it would appear appropriate for the Department of Public Welfare to review the use of state hospitals as a major respite resource in the state and to review alternative possibilities.

D. SPECIAL PROCEDURES REGARDING ADMISSION OF CHILDREN TO STATE HOSPITALS.

Summary of Decree Requirements. (Paragraphs 17-20). An appropriate community placement must be developed so that no child's residency at a state hospital exceeds one year. A county may request an extension of time to develop appropriate community services.

Compliance Status. At January 1, 1984 there were 12 unresolved issues at statewide level, and 8 at state hospitals.

At December 31, 1982 there were a total of 13 children in state hospitals for whom extension requests had been received from their county. Despite the fact that during 1983, 23 children who had been admitted to state hospitals after September 15, 1980 were placed either with their families, foster families or into group homes, 12 of these children continued to reside in state hospitals at December 1983.

Of the 12 children remaining in state hospitals, one has resided there for a year or less, 6 have resided there for between one and two years, and 5 have resided there over two years. The time limits of state hospital stay specified in stipulated agreements following a number of hearings have been exceeded for a number of children. Citing this and other items, plaintiff counsel has requested that a notice of initial determination of non-compliance be issued to the Commissioner of Public Welfare for failures to take all steps necessary to effect appropriate community placements of these children within the one year time limit under the Consent Decree. That request is currently under consideration.

On June 20, 1983 a memorandum was sent to state hospital Chief Executive Officers, Medical Directors and Mental Retardation Program Directors concerning the admission of children to state hospitals reiterating the policy of the Department of Public Welfare regarding children's admissions to state hospitals. A copy of that memorandum is included in Volume 2. The Department has not issued a detailed instructional bulletin to counties on diversion of children from state hospitals and procedures for community service development for

children in state hospitals.

Many children still remain in Minnesota's seven state hospitals. On September 30, 1983 there were 168 students in TMR classrooms or a decline of 43% over the previous year. This decline occurred as students reached school leaving age or when they had received the mandated number of years of schooling despite an age in excess of school leaving age.

Table 5. Number of State Hospital Residents Served in "Trainable" Mentally Retarded Students Classrooms in Minnesota

State Hospital	December 31, 1982	September 30, 1983
Brainerd	81	49
Cambridge	79	44
Faribault	70	34
Fergus Falls	34	25
Moose Lake	3	0
Saint Peter	11	6
Willmar	15	10
Totals	293	168

A large proportion of students in TMR classrooms are children. It may be estimated, then, that children still make up about 5-10% of the total population of mental retardation programs in state hospitals.

Recommendations. In the first report to the Court it was recommended that each state hospital inform the parents or guardians and the responsible county of the limited stay

provision upon admission of a child to a state hospital. In the memorandum to Chief Executive Officers dated June 20, 1983, the Department suggested that each county worker and parent be informed of the limited length of stay for children in state hospitals.

It was recommended in the previous report that the Technical Assistance Staff of the Department of Public Welfare study the available information on the admission of children to state hospitals to identify gaps in policy and practice which could be filled to minimize or eliminate such admissions or to provide for the community placement of children presently in state hospitals. The Technical Assistance Report covering the period from January 1, 1983 through June 30, 1983 did not provide an analysis of strategies to minimize admission of children to state hospitals.

E. ASSESSMENTS OF COMMUNITY PLACEMENT NEEDS

Summary of Decree Requirements. (Paragraph 21). A detailed assessment of the type of community placement and the scope of services needed in the community is to be made yearly for each state hospital resident based on the actual needs of the resident rather than upon currently available services. These assessments are to be used by the Commissioner of Public Welfare and by the counties in planning community service development.

Compliance Status. At January 1, 1984 there were 2 unresolved issues at the statewide level and three at state hospitals. No additional information has been presented concerning implementation of this requirement by the Department

of Public Welfare either through Social Services Bureau actions or through issuance of Departmental Instructional Bulletins. The relationship between individual needs as described by interdisciplinary teams and county plans has not been reviewed to date by the monitor.

F. DISCHARGE PLAN AND REVIEW OF PROGRAM APPROPRIATENESS

Summary of Decree Requirements. (Paragraphs 22 and 23). For each state hospital resident who is to move into the community a discharge plan must be prepared. This plan is to specify the type of residential setting, an individual habilitation plan, the type of developmental or work program, and the scope of supportive services to be provided.

The county case manager is to visit the placement within 60 days after placement to assess whether the appropriate programs and services required by the discharge plan are being delivered. Evaluations overdue by 75 days or more are to be reported to the Commissioner of Public Welfare and the Commissioner is to assure that an assessment is submitted to the monitor within 90 days after placement.

Compliance Status. At January 1, 1984 there were 7 unresolved issues at the statewide level and 12 at state hospitals. A number of compliance issues remain unresolved concerning the adequacy of discharge plans, and the adequacy with which community placements have been evaluated. Volume 3 of this report lists these issues for both the state hospital and statewide issue levels.

This section of the Consent Decree is an important one in

preventing placements which fall short of meeting the individual needs of class members. Plaintiff counsel have recommended a set of standards concerning the preparation of discharge plans and completion of evaluation of community placements. These proposals are currently being considered by the Department of Public Welfare.

Recommendation. It was recommended that state hospitals attach a model evaluation format to each discharge plan as a guide for the county case manager. This recommendation has not been implemented at a majority of state hospitals to date. This recommendation will be made again in the context of discussions with the Department on discharge plan and community placement guidelines under development.

No further action has been taken by the Department of Public Welfare to implement a recommendation in the first report that the parties stipulate to the exclusion of class members placed from the Minnesota Learning Center component of Brainerd State Hospital into facilities other than Rule 34 licensed residential facilities for mentally retarded persons. Many of the adolescents served by the Minnesota Learning Center are involved with the juvenile justice system.

G. PLACEMENT IN COMMUNITY PROGRAMS

1. Types of Placements.

Summary of Decree Requirements. (Paragraph 24). Class members are to be placed in community programs which meet their needs. Placements are to be made to: a family home or state licensed home, state licensed program or a state licensed

facility or an independent community residence if that individual has sufficient independent living skills. Placement is also allowed until July 1, 1981 in a certified foster home for four or fewer.

Compliance Status. At January 1, 1984 there were 12 unresolved issues at statewide level, and four at state hospitals. No further notices of non-compliance have been issued for reductions in Developmental Achievement Center services for financial reasons issued since the previous report to the Court.

In the second report to the Court it was recommended that the parties agree to a timetable for a state licensing rule for foster care for persons with mental retardation - including adults - or in the alternative, that the parties stipulate to new language for Paragraph 24 of the Consent Decree. Placements are continuing into adult foster care despite the fact that Rule 203 has not been revised as contemplated by this provision. A request has been made, however, for additional funding to permit the adult foster care rule revision by the Department. The rule writing process is expected to be completed in 1985.

A notice of initial determination of non-compliance regarding Paragraph 24 was issued March 16, 1983 concerning the services provided to a number of class members at the Hawthorne House residential facility and at the Itasca County Developmental Achievement Center. The hearing on this matter was continued to permit the Department of Public Welfare to implement a plan of corrective action. A number of steps have been taken to remedy the deficiencies alleged at the hearing. This issue has not been resolved at this writing as the adequacy of the remedial steps

has not as yet been reviewed in their impact upon the programs and services offered to the class members involved.

An initial notice of non-compliance was issued on November 23, 1983 with regard to provisions 24 and 26 for a class member placed from Fergus Falls State Hospital into a nursing home. As part of the process to arrive at a resolution of the unresolved issue, the Department of Public Welfare has been asked to provide a policy statement by January 31, 1984 concerning criteria for placement of persons into nursing homes and into Intermediate Care Facilities for Mentally Retarded persons.

A number of compliance issues are under active consideration under this provision currently as indicated in Volume 3 at both the state hospital and statewide compliance levels.

Recommendation. In light of a recent admission to a state hospital from an adult foster care setting and an associated allegation of abuse in that home (Volume 3), it is recommended that the Department of Public Welfare immediately take measures to sample the placements of class members placed into adult foster care to ensure that they are being afforded an appropriate community placement.

It was further recommended in the previous report that the Department of Public Welfare act to strengthen current mechanisms designed to assure quality community placements, such as program licensing reviews. No notice has been received to date of systematic plans to strengthen the quality assurance system for community placements.

2. Preference for Small Residential Facilities.

Summary of Decree Requirements. (Paragraph 25). For community placements to other than families, preference shall be given to small residential settings with 16 or fewer persons living there; for larger facilities, preference shall be given to those facilities having units of 6 or fewer persons.

Compliance Status. The overall number of discharges from state hospitals increased slightly in 1983 over 1982. A greater proportion of class members were placed into 6 person or smaller group homes and into group homes for 7 to 16 persons in 1983 than in 1982. The size of placements for class members in 1982 and 1983 is compared in Figure 6 and Table 6. The number of discharges for 1983 for each state hospital by month is shown in Table 7.

Figure 6

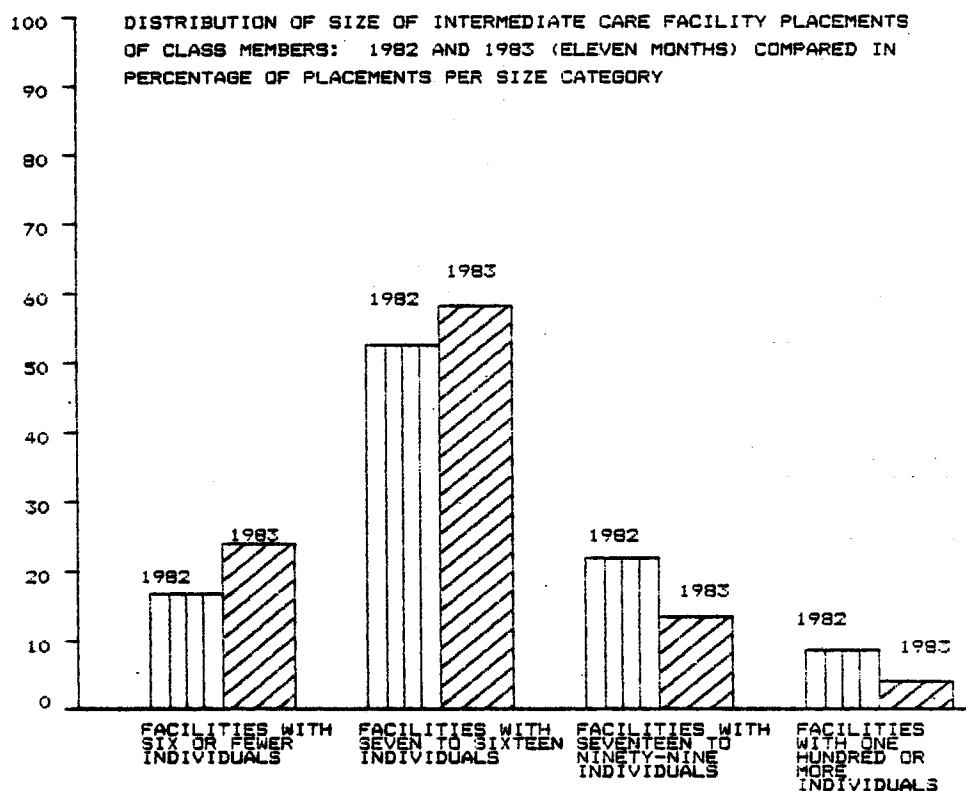


TABLE 6: COMMUNITY PLACEMENTS BY SIZE OF RESIDENTIAL FACILITY

YEAR/PERSONS	1-6	7-16	17-99	100+
1982	16.8%	52.4%	22.1%	8.7%
1983	24.1%	58.2%	13.5%	4.2%

Table 7

Mental Retardation Program
Minnesota State Hospital Discharges: January - November, 1983

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	1983
Brainerd													
Family/Foster	0	0	1	0	0	3	4	3	3	0	0	NA	14
ICF/NR: 6 or less	0	0	0	0	0	0	0	0	0	0	0		0
7-16	0	0	4	4	1	1	0	1	1	0	2		14
17-99	0	0	0	0	0	0	1	0	0	0	0		1
100 +	0	0	0	0	0	0	0	0	0	0	0		0
Other	1	0	0	0	0	0	0	0	0	1	1		4
Brainerd Total	1	0	5	4	1	4	5	4	4	1	3		33
NR Learning Ctr													
Family/Foster	4	3	5	0	3	4	3	5	3	2	3		35
ICF/NR: 6 or less	0	1	0	0	0	2	0	0	1	0	0		4
7-16	0	0	0	1	0	1	0	1	0	0	0		3
17-99	0	0	0	0	0	0	0	0	0	0	0		0
100 +	0	0	0	0	0	0	0	0	0	0	0		0
Other	1	1	3	1	0	2	0	4	1	2	0		15
NR Learning Ctr Total	5	5	8	2	3	6	3	10	5	4	3		57
Cambridge													
Family/Foster	1	0	2	0	0	1	2	2	0	0	0		8
ICF/NR: 6 or less	1	0	7	1	1	0	0	0	0	0	0		10
7-16	0	1	0	2	0	1	2	1	1	0	0		8
17-99	0	3	0	1	0	1	2	0	0	0	0		7
100 +	0	0	0	0	0	0	1	0	0	0	0		1
Other	0	0	0	0	1	1	0	1	0	1	1		5
Cambridge Total	2	4	9	4	2	4	7	4	1	1	1		38
Fairbault													
Family/Foster	0	0	0	0	0	0	0	1	0	0	0	NA	1
ICF/NR: 6 or less	0	1	0	1	0	0	0	0	0	3	1		6
7-16	0	0	3	1	4	1	3	7	0	1	1		21
17-99	0	1	0	2	0	1	0	1	1	1	1		8
100 +	0	1	0	0	1	1	2	0	0	0	0		5
Other	0	0	1	0	1	1	0	1	1	2	0		8
Fairbault Total	0	3	4	4	6	4	5	10	2	6	5		49
Fergus Falls													
Family/Foster	0	1	0	0	0	0	2	0	0	0	0		3
ICF/NR: 6 or less	1	0	0	1	0	0	1	0	0	2	1		6
7-16	0	2	1	0	0	10	1	0	0	0	0		14
17-99	0	0	0	0	0	0	0	0	0	0	0		0
100 +	0	0	0	0	0	0	0	0	0	0	0		0
Other	1	3	0	3	1	0	4	2	1	4	2		21
Fergus Falls Total	2	6	1	4	1	10	8	2	1	6	3		34
Moose Lake													
Family/Foster	0	0	0	0	0	0	0	0	0	1	0		1
ICF/NR: 6 or less	0	0	4	0	0	0	0	0	0	0	0		4
7-16	0	0	0	0	0	0	0	1	0	0	0		1
17-99	0	0	0	0	0	0	0	0	0	0	0		0
100 +	0	0	0	0	0	0	0	0	0	0	0		0
Other	0	0	0	0	0	0	0	0	0	0	0		0
Moose Lake Total	0	0	4	0	0	0	0	1	0	1	0		7
St. Peter													
Family/Foster	0	2	0	1	1	3	3	4	1	2	4	NA	21
ICF/NR: 6 or less	0	0	0	0	0	1	0	1	0	1	0		3
7-16	1	0	1	8	5	0	0	0	0	1	1		17
17-99	0	0	0	1	0	0	6	0	0	0	0		1
100 +	0	0	0	0	0	0	0	0	0	0	0		0
Other	0	0	0	0	0	0	0	1	0	0	0		1
St. Peter Total	1	2	1	10	6	4	9	6	1	4	5		43
Willmar													
Family/Foster	0	0	0	0	0	0	0	0	0	0	0		0
ICF/NR: 6 or less	0	0	0	0	0	0	0	0	1	0	0		1
7-16	1	1	1	0	0	0	0	1	0	0	0		4
17-99	0	0	0	0	0	0	0	0	0	1	0		1
100 +	1	0	0	0	1	0	0	0	1	0	0		2
Other	1	0	0	1	1	0	0	0	0	0	0		3
Willmar Total	2	1	1	1	2	0	0	1	2	1	0		11

Total Discharges January - November, 1983

Family/Foster	83
ICF/NR: 6 or less	34
7-16	82
17-99	19
100 +	8
Other	57

Total Discharges: 283

Other includes: unauthorized absence, nursing home, intra-hospital transfer, inter-hospital transfer, out-of-state facility, non-ICF/NR group home, discharge to court system.

3. Appropriate Day Programs.

Summary of Decree Requirements. (Paragraph 26). All persons discharged from state institutions shall be provided with appropriate educational, developmental, or work programs such as public school, developmental achievement programs, work activity, sheltered work, or competitive employment.

Compliance Status. At January 1, 1984 there were 12 unresolved issues at the statewide level and 7 at state hospitals. No further notices of non-compliance have been issued for cuts in the quantity of day programs. The program license for Developmental Achievement Center Services, the Department of Public Welfare Rule 38, has not yet been promulgated. As was indicated above, under Paragraph 24, there are two unresolved issues concerning the adequacy of day programs for which notices of non-compliance have been issued.

H. APPEALS FROM COMMUNITY PLACEMENT DECISIONS

Summary of Decree Requirement. (Paragraph 27). A state hospital resident or the resident's guardian may object to a proposed community placement through the mechanism provided in the Department of Public Welfare Rule 185 Social Service Appeal.

Compliance Status. No notices of appeals of community placement were received in 1983.

I. TECHNICAL ASSISTANCE

Summary of Decree Requirements. (Paragraphs 28-33). The Commissioner of Public Welfare shall allocate three staff positions to assist in all phases of the development of community-based services for persons who are mentally retarded.

Compliance Status. One issue remains unresolved at the statewide level. A report on the activities of the Technical Assistance Activities report covering the first half of 1983 was received July 20, 1983. An excerpt of that report is contained in Volume 2.

In the previous report to the Court, it was recommended that the Department of Public Welfare address the potentially pervasive barriers to community placement of class members in detail in the report on Technical Assistance. The report received in July described eight potentially pervasive barriers to community placement of class members: (1) lack of an on-going mechanism for counties to work together to meet the needs of class members, (2) lack of cooperation between state and county levels of government, (3) gaps in the array of residential and vocational services to mentally retarded persons, (4) difficulty in funding support services, (5) vested interests and practices in dealing with the needs of mentally retarded persons, (6) mutual insulation and lack of coordination of state hospital and community programs, (7) duplication in the area of need determination by the Department of Health and Public Welfare, and (8) lack of program quality standards for residential, day, and support service areas.

Recommendation. It is recommended that the Department of Public Welfare propose specific measures to effectively address the eight barriers to community placement.

In another compliance action regarding this section of the Decree, plaintiff counsel alleged that the Department of Public

Welfare was out of compliance with Paragraph 30 in that the Mental Retardation Division fell below the required six full time positions. A notice of initial determination of non-compliance was issued September 16, 1982. The hearing planned for December 10, 1982 has been continued to permit remedial action by the Department. The issue remains unresolved.

J. LICENSORS

Summary of Decree Requirements. (Paragraphs 34-35). The Commissioner of Public Welfare shall determine the number of licensors required to assure that programs meet existing standards and shall request sufficient funds to fill needed positions. Licensors in the Department of Public Welfare are to be provided training in program planning for mentally retarded persons, behavior management, communication programs, and the needs of physically handicapped persons.

Compliance Status. At January 1, 1984 there were two issues unresolved at the state level. A notice of initial determination of non-compliance with regard to assessment of the needed number of licensors was issued on November 18, 1982. A planned hearing was continued to allow for remedial action by the Department of Public Welfare. A meeting was held with Assistant Commissioner Melvin Harris who is responsible for the licensing function. The issue remains unresolved.

In the previous report to the Court it was recommended that the Department of Public Welfare actively review the number of licensors needed to assure adherence to existing standards, identify the competencies and related training that should be

required of licensors, and incorporate these measures into an overall plan for assuring quality of life for placed class members. The key role of the county case manager in the lives of persons who are mentally retarded should be recognized in this process. No notice of action on this recommendation has been received.

III. STAFF REQUIREMENTS FOR STATE HOSPITALS

Requirements for staffing in state hospitals are contained in Paragraphs 36 to 59 in Part IV of the Consent Decree.

Compliance Status. There is 1 unresolved issue at the statewide level and 11 at state hospitals concerning the staffing requirements of the Consent Decree. Plaintiff counsel complained during this reporting period that the report on staffing funding had not been provided as agreed in the memorandum of agreement of July 1982 but that matter has apparently been resolved.

During 1983 progress continued toward the staffing targets specified in the Consent Decree. In one case, direct residential care staff, levels have approximated the level required in the Consent Decree.

Table 8. State Hospital Staffing Compliance for Residential Program Direct Care Staff: Filled Positions as a Percentage of Required Positions for 1982 and 1983.

Date	Positions Required	Positions Filled	Percentage
03/31/82	1,657.01	1,439.80	86.9
06/30/82	1,647.20	1,458.00	88.5
09/30/82	1,614.95	1,543.58	95.6
12/31/82	1,601.20	1,600.83	99.9
9/30/83	1,534.7	1,544.7	100.7

Looking at the major categories of staffing positions between December 31, 1982 and September 30, 1983, there has generally been progress toward the Consent Decree targets.

Table 9. State Hospital Staffing Positions Filled as a Percentage of Staff Positions Required for Residential and Day Program Staff

Category/Date	12/31/82	9/30/83
Residential/ Direct Care	99.99%	100.7%
Residential/ Supervisory	97.2%	94.6%
Day Program/ Direct Care	95.9%	98.4%
Day Program/ Supervisory	74.6%	78.4%

Only the residential supervisory positions moved further from compliance. Day program supervisory positions remain the furthest from compliance.

It is anticipated that discussions will be held with the parties by the next report concerning disagreements over definitions of staffing positions and counting procedures.

B. CAMBRIDGE STATE HOSPITAL STAFFING LEVELS

Summary of Decree Requirement. (Paragraph 59). Positions may not be transferred from Cambridge State Hospital unless a sufficient staff allocation is maintained to meet all terms of the Consent Decree.

Compliance Status. No indication has been received of any reduction in staff allocation at Cambridge State Hospital in 1983.

C. IN-SERVICE TRAINING FOR STAFF

Summary of Decree Requirements. (Paragraph 60). State hospitals shall provide increased emphasis to in-service on: the proper care of persons with physical handicaps, on effective development of communication skills for severely and profoundly handicapped persons, and in community services in residential and other service areas.

Compliance Status. There are currently two unresolved issues at statewide level and none at state hospitals. At April 30, 1983 there were seven outstanding compliance issues concerning the question of increased emphasis on the four areas of training identified above.

Recommendation. No indication of any action has been received concerning the recommendation that the Department of Public Welfare select a sample of individual program plans and observe the implementation of these programs, identify strengths and weaknesses of staff training in these four areas mentioned in the Decree, and undertake corrective action as deemed appropriate to assure a quality program process.

D. CONSULTANT SERVICES

Summary of Decree Requirement. (Paragraph 61) Funding for consultants providing special services for mentally retarded persons shall not be reduced to achieve staffing requirements of the Consent Decree.

Compliance Status. There continues to be one outstanding issue at the statewide level concerning funding of consultant services. A request for Department action has been made.

E. RECRUITING DIFFICULTIES

Summary of Decree Requirement. (Paragraph 62). If a chief executive officer of a state hospital is consistently unable to fill a position required by this Decree, a report is to be made detailing efforts made to recruit such a position.

Compliance Status. Vacancies have continued particularly in the areas of speech therapy, physical therapy, and occupational therapy.

IV. REQUIREMENTS FOR INDIVIDUAL RESIDENTS

The largest group of unresolved compliance issues concerns the adequacy of individual programs of training or remedial services and the appropriate use of aversive procedures with state hospital residents.

A. INDIVIDUAL HABILITATION PLANS

Summary of Decree Requirements. (Paragraph 63). Each resident must be provided with an individualized habilitation plan and programs of training and remedial services. These plans shall be reviewed, evaluated, and altered periodically to meet the current needs of the particular resident.

Compliance Status. At January 1, 1984 there were 64 unresolved issues on the adequacy of individual habilitation programs. There were 4 unresolved issues at the statewide level, 6 at Cambridge State Hospital, 11 at Faribault State Hospital, 8 at Fergus Falls State Hospital, 28 at Moose Lake State Hospital, and 7 at Willmar State Hospital. Complaints on the adequacy of habilitation programs cover the major areas of assessment of individual needs and strengths, goal selection for training, strategies for training, and evaluation and remediation of procedures.

The present budget of the monitor does not permit a level of review of habilitation plans which would be desirable. The practice of retaining consultants in specialized areas such as communication development to assist in reviewing programs and preparing initial responses to complaints will be continued.

Recommendation. In the previous report it was recommended that the Department of Public Welfare pay particular attention to the quality of programs offered persons with physical and sensory handicaps in addition to mental retardation. Eight recommendations were made concerning assessment procedures, programming content, the necessity for strong indirect service models for therapies, adequate staffing ratios, consistent staffing, provision for environmental interaction through proper positioning, determination of need for program modification, and utilization of outside consultant resources. No notice of specific action in relation to these recommendations has been received.

B. ADAPTED WHEELCHAIRS

Summary of Decree Requirement. (Paragraph 64). Each state hospital resident who requires a wheelchair must be provided with one adapted to his or her size and personal positioning needs.

Compliance Status. Three unresolved issues remain at the statewide level and 1 remains at a state hospital (Faribault State Hospital). This contrasts with April 30, 1983 when there were 7 outstanding compliance issues relating to the provision of adapted wheelchairs to state hospital residents. There has been a steady decline in the number of individuals waiting for adaptations to be completed for their wheelchairs.

A team of consultants headed by Richard Nelson, M.D. of the Gillette Children's Hospital was retained to review the adequacy of wheelchair adaptations for state hospital residents. The initial report was conducted on Faribault State Hospital and was

provided to state hospital management for their response. It is anticipated that additional reviews will be conducted at other state hospitals.

C. MECHANICAL RESTRAINT, SECLUSION, AND SEPARATION

Summary of Decree Requirements. (Paragraphs 65-74).

Restriction of normal movement or function of limbs or other parts of the body and confinement alone for a brief or a longer period of time of state hospital residents are governed by requirements in Part V of the Consent Decree.

Compliance Status. At January 1, 1984 there were 26 unresolved issues of which 4 were at the statewide level, 1 was at Brainerd State Hospital, 9 were at Cambridge State Hospital, 5 were at Faribault State Hospital, 6 were at Fergus Falls State Hospital, and 1 was at Moose Lake State Hospital. At April 30, 1983 there were 61 unresolved issues.

The trend in the overall use of aversive procedures with state hospital residents was mixed in 1983. Two state hospitals, Brainerd and Moose Lake, showed a decline in the number of persons with whom restraint or separation is used and in the amount of time involved in each instance with such use. Two state hospitals, Fergus Falls and Saint Peter, showed no clear change. Faribault State Hospital and Cambridge State Hospital showed an increase in use. Willmar State Hospital employs a manual hold procedure which does not fall under this section of the Consent Decree. Figures 7 and 8 show the trends for Brainerd and Faribault State Hospitals, respectively.

Figure 7

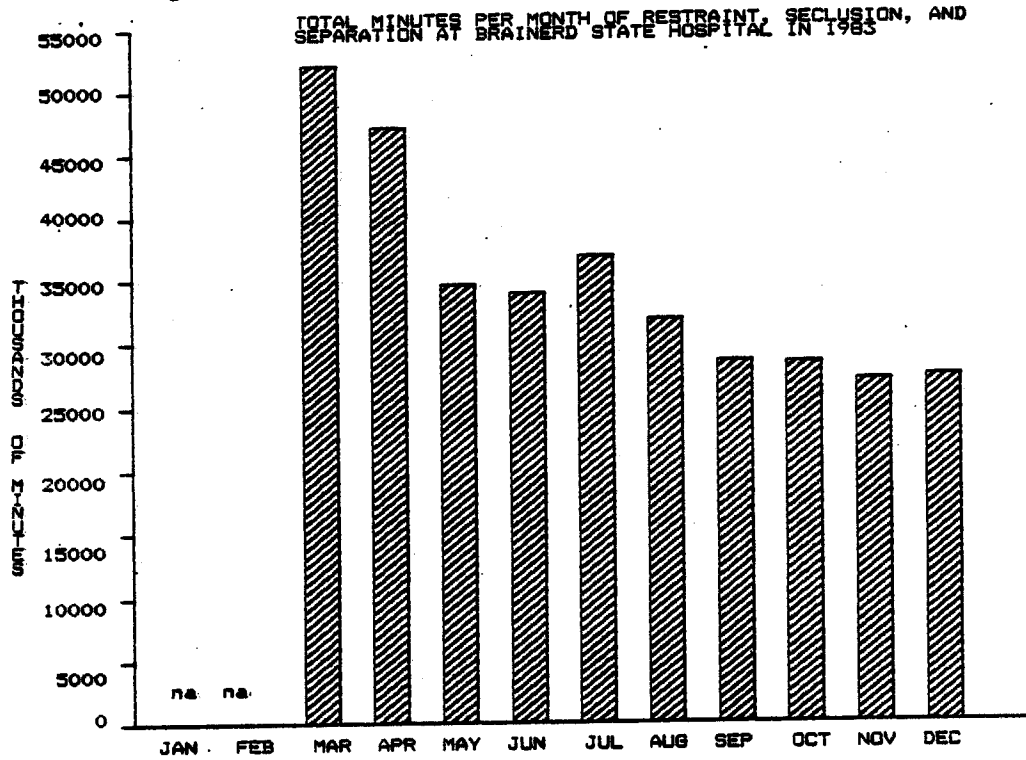
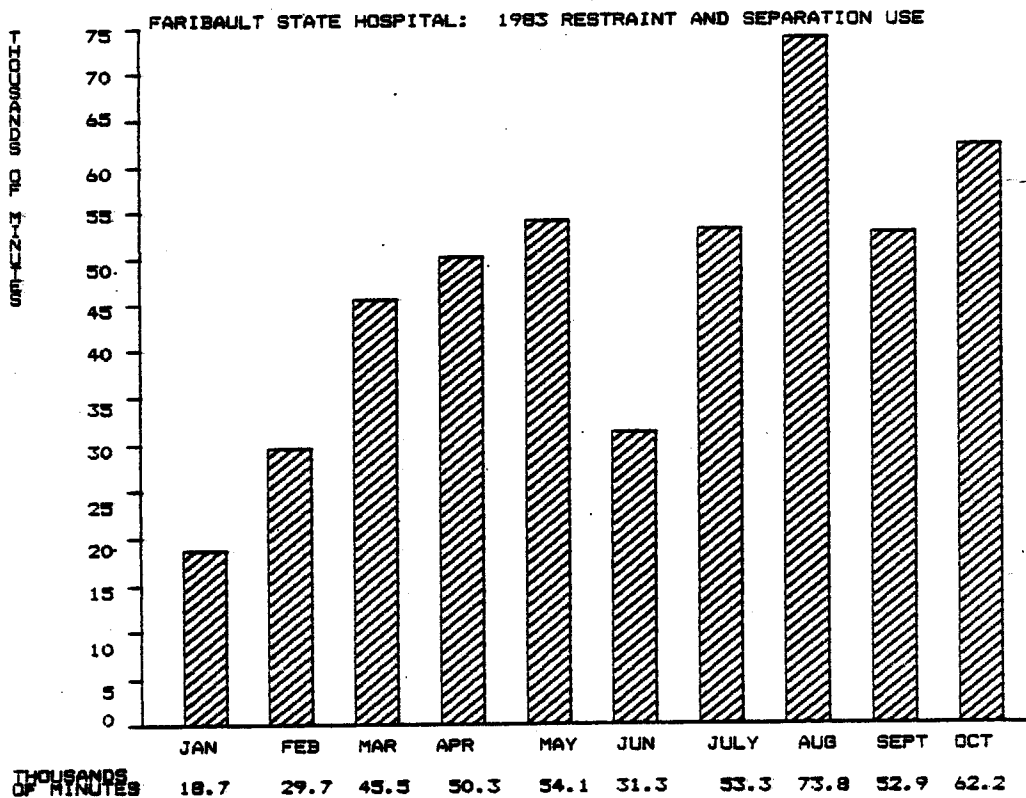


Figure 8



Recommendation. In the previous report it was recommended that the Department of Public Welfare conduct a detailed review of the programs of individuals who are restrained or separated and retain outside consultants to offer suggestions on programs for individuals for whom programs to date appear to have been unsuccessful in eliminating serious behavior problems. In 1983, Faribault State Hospital retained Dr. Richard Foxx, a national expert in the area of behavior management, to address a severe and longstanding case of self-injurious behavior. The results to date are apparently successful for the young man involved.

D. SERIOUS INJURIES AND DEATHS

Summary of Decree Requirements. (Reporting Order Paragraph 5F). A report is to be made monthly by each state hospital of serious injuries and deaths.

Compliance Status. There were two unresolved issues concerning injuries at January 1, 1984. The number of serious injuries reported in 1983 are shown in Table 10. The total number of injuries reported jumped significantly from 1982. The likely explanation for this jump are differences in definitions of serious injuries across the seven state hospitals. The proportion of injuries which were not observed by staff increased across the system from 51.7% to 57.1% from 1982 to 1983. This finding is somewhat puzzling in light of the substantially improved ratio of staff to residents cited above.

Nineteen state hospital residents died in the first 11 months of 1983, down from 30 in 1982. Faribault reported 10

Table 10

Mental Retardation Programs
Minnesota State Hospital Injuries: 1983

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	1983
Brainerd												
Observed	2	0	1	0	0	0	0	0	0	0	1	4
Unobserved	0	0	0	0	0	0	1	0	0	1	0	2
Brainerd Total	2	0	1	0	0	0	1	0	0	1	1	6
MN Learning Ctr												
Observed	0	0	1	0	2	2	0	0	0	0	0	5
Unobserved	1	0	0	0	0	0	0	0	0	0	0	1
MN Learning Ctr Total	1	0	1	0	2	2	0	0	0	0	0	6
Cambridge												
Observed	7	4	5	4	4	4	2	1	2	4	2	39
Unobserved	10	5	8	7	5	9	4	1	6	4	5	64
Cambridge Total	17	9	13	11	9	13	6	2	8	8	7	103
Fairbault												
Observed	0	0	2	1	0	0	1	0	0	0	0	4
Unobserved	1	1	0	0	2	0	0	2	1	0	1	8
Fairbault Total	1	1	2	1	2	0	1	2	1	0	1	12
Fergus Falls												
Observed	0	0	0	2	0	0	1	0	2	2	1	8
Unobserved	0	3	0	2	2	2	3	1	0	2	1	16
Fergus Falls Total	0	3	0	4	2	2	4	1	2	4	2	24
Moose Lake												
Observed	0	0	0	0	0	0	0	0	0	0	0	0
Unobserved	0	1	1	0	1	0	1	0	1	0	0	5
Moose Lake Total	0	1	1	0	1	0	1	0	1	0	0	5
St. Peter												
Observed	3	2	0	2	2	0	0	2	4	2	0	17
Unobserved	0	0	0	1	2	0	1	2	0	2	0	8
St. Peter Total	3	2	0	3	4	0	1	4	4	4	0	25
Willmar												
Observed	0	0	0	0	0	0	0	1	0	0	0	1
Unobserved	0	0	0	0	0	0	0	0	0	0	0	0
Willmar Total	0	0	0	0	0	0	0	1	0	0	0	1
Total Injuries												
Observed	12	6	9	9	8	6	4	4	8	8	4	78
Unobserved	12	10	9	10	12	11	10	6	8	9	7	104
Total Injuries	24	16	18	19	20	17	14	10	16	17	11	182

Total Injuries January - November, 1983

Observed:	78 (42.9%)
Unobserved:	104 (57.1%)
Total Injuries:	182 (100.0%)

deaths; Brainerd and Cambridge reported 3 deaths; Fergus Falls, Saint Peter and Willmar reported 1 death each; and Moose Lake reported no deaths.

E. LIMITATIONS ON THE USE OF MAJOR TRANQUILIZERS

Summary of Decree Requirements. (Paragraphs 75-81). The use of major tranquilizers is limited to specific circumstances, and procedures for adjusting dosage based upon empirical determination of efficacy are required.

Compliance Status. As was indicated in the previous report, plaintiff counsel wrote on December 23, 1982 to request extension of the order to Cambridge State Hospital. Plaintiff counsel subsequently provided a complete survey of the use of psychotropic medications in all seven state hospitals. In that report, Cambridge State Hospital clearly showed the highest proportion of mentally retarded persons on psychotropic medications and was one of two state hospitals above average in the amount of such medication prescribed.

Dr. Robert Sprague, an expert in the use of psychotropic medications with mentally retarded persons, was retained as a consultant to review the use of psychotropic medications at Cambridge and at a comparison state hospital. It is anticipated that his recommendations will be included in the next report to the Court.

V. PHYSICAL PLANT MODIFICATIONS

A. PRIVACY MODIFICATIONS

Summary of Decree Requirements. (Paragraph 82). Toileting and bathing areas used by mentally retarded residents shall be modified as necessary to ensure privacy no later than July 1, 1981.

Compliance Status. At January 1, 1984 there was 1 unresolved issue concerning privacy modifications - at Faribault State Hospital - although some improvements have been made to privacy arrangements since the last report. A further onsite review of privacy arrangements at Faribault State Hospital is required and will be provided in the next report.

B. CARPETING AND AIR CONDITIONING

Summary of Decree Requirement. (Paragraphs 83). A plan is to be developed by the Department of Public Welfare no later than July 1, 1983 to provide carpeting or an alternative floor covering for use by mentally retarded persons in state hospital.

Compliance Status. No plan as required has been provided to the office of the monitor relating to carpeting or an alternative floor covering in state hospitals by the Department of Public Welfare. The monitor has learned, however, that a capital budget request for \$1,137,790 has been made to provide for carpeting or alternative floor covering.

C. ALTERATIONS AT FERGUS FALLS STATE HOSPITAL

1. Summary of Decree Requirement. (Paragraph 85). Certain alterations to the Achievement Center for the Physically

Handicapped are to be made after the completion of transfer of the Adult Achievement to a renovated area.

Compliance Status. No notice has been received of renovation of the Achievement Center for Multiply Handicapped persons.

2. Summary of Decree Requirement. Air conditioning or an alternative form of ventilation shall be provided in the Achievement Center for Multiply Handicapped persons at Fergus Falls State Hospital by May 1, 1983 contingent upon legislative approval of funds.

Compliance Status. No indication has been received that the required air conditioning or alternative ventilation has been provided as required and no plan for doing so has been offered. The monitor has learned, however, that a capital request for \$222,000 has been made to provide air conditioning or alternative ventilation.

VI. LEGISLATIVE PROPOSALS

Summary of Decree Requirements. (Paragraphs 89 A-F, 101).

Under the terms of the Consent Decree the Commissioner of the Department of Public Welfare shall propose prior to each session of the Legislature all measures necessary for implementation of the Decree.

Compliance Status. No proposals have been received as the next regular session of the Legislature is scheduled for 1985.

W / Ruc

Are there any
required this
Session?

VII. SUMMARY AND RECOMMENDATIONS

A. SUMMARY

Despite progress in a number of areas of compliance over the present reporting period, substantial issues remain concerning (1) the adequacy of individual programs and services of habilitation in state hospitals and (2) the adequacy with which plans are developed for community living and (3) on the adequacy of the monitoring efforts of class members once placed into the community to assure programs and services corresponding to the discharge plan.

It is hoped that current discussions underway to clarify the discharge planning process and evaluation of the appropriateness of community placements will increase the likelihood that the class members will receive programs and services based upon their individual strengths and needs.

B. RECOMMENDATIONS

1. In the previous report it was recommended that the Commissioner of Public Welfare ensure that a mechanism be put in place to firmly link the needs of individuals at risk of institutional placement and the community placement needs of class members in state hospitals with county plans for serving mentally retarded persons. No indication of action on this recommendation has been received in terms of changes in criteria for plans for serving mentally retarded persons in the 87 counties of the state.

2. The routine notification of parents or guardians and responsible counties regarding the one year limited stay of

*draft
criteria
completed*

children in state hospitals was recommended in the first report. This recommendation has largely been implemented although it is not clear that all county social workers placing children in state hospitals have an awareness of the limited stay provision. A review of the policy of relying upon state hospitals for children's respite services is recommended. *Shelley*

3. It was recommended that the Technical Assistance Staff for the implementation of the Welsch Consent Decree carefully study available information on the admission of children to state hospitals to identify any gaps in policy or practice which could be filled to minimize or eliminate children's admissions to state hospitals and promote community placement of children remaining in state hospitals. The most recent report on Technical Assistance did identify impediments to the implementation of the Consent Decree but it would be desirable to have a greater focus upon strategies for addressing the diversion of children from state hospital placement and for a more timely development of community alternatives for children currently placed in state hospitals. *leg*

4. It was recommended in the second report that state hospitals attach a model evaluation format to assist county case managers in completing reviews of appropriateness of community placements. This recommendation is currently under consideration by the Department of Public Welfare.

5. It was recommended that class members placed from the Minnesota Learning Center component of Brainerd State Hospital to other than Rule 34 licensed residential facilities be excluded from the requirement for a community placement evaluation. The

2
Department of Public Welfare has not acted to bring forward a stipulation on this recommendation to plaintiff counsel.

6. It was recommended that the Department of Public Welfare reiterate the instruction that county case managers actually visit class members in their community placement to assess whether programs and services are being delivered as planned. This recommendation is currently being considered by the Department of Public Welfare as part of discussions on discharge planning, evaluation, and monitoring of community placements.

7. It was recommended previously that the parties stipulate to a timetable for the development of a state licensing rule for foster care for persons with mental retardation - including adults - or in the alternative, stipulate to new language for Paragraph 24 of the Consent Decree. Subsequently the Social Services Bureau of the Department of Public Welfare has sought additional funds to develop an updated rule. It is recommended that the Department take immediate measures to assure that placements into adult foster care meet individual needs in the absence of that rule.

8. It was recommended that the Department of Public Welfare move to strengthen current mechanisms, such as licensing, and review non-traditional mechanisms, such as parent monitoring committees for facilities, to respond to present and future issues on program quality for class members residing in the community. A consultant has been retained by the state to review current licensing practices and to make recommendations and the

position of Quality Assurance Director for the Department has been created.

9. It was recommended that the Technical Assistance report specifically address potentially pervasive barriers to community placement of class members. The most recent report did address impediments to implementation as requested. It is further recommended that the Department of Public Welfare propose specific measures to address the eight barriers to community placement identified. *legislation? Policy?*

10. It was requested that the Department of Public Welfare attain the required staff complement in the Mental Retardation Division to render further compliance action unnecessary. This matter had not been resolved at January 1, 1984. *JAR?*

11. It was recommended that the Department of Public Welfare actively review the number of licensors required to ensure compliance with existing standards, identify competencies and related training that should be required of licensors, and incorporate these measures into an overall plan for assuring quality placements for class members. As was indicated above, the state has retained a consultant to make recommendations in these areas.

12. It was recommended that the Department of Public Welfare review a sample of individual program plans and the implementation of these programs to identify strengths and weaknesses in current staff training programs in the four areas specified in the Decree and undertake corrective action as deemed appropriate to assure a quality program process. No indication of action on this recommendation has been received.

13. It was recommended that the Department of Public Welfare review eight recommendations made by plaintiff counsel staff concerning individual habilitation plans in the areas of assessment procedures, programming content, the necessity for an indirect service model for therapies, adequate staffing ratios, consistent staffing, provision for environmental interaction through proper positioning, determination of need for program modification, and utilization of outside consultant resources. No indication of action on this recommendation has been received.

14. It was recommended that the Department of Public Welfare review the remaining numbers of individuals who are physically restrained or separated in locked rooms and retain outside consultants for individuals for whom aversive programs to date have been unsuccessful in eliminating serious behavior problems involving injuries to self or others. With the exception of one consultant retained to address the needs of one state hospital resident, no indication of action on this recommendation has been received.

15. It was recommended that the Department of Public Welfare review the current status of privacy arrangements in bathing and toilet areas at Faribault State Hospital and propose a timetable for completing the needed actions. At January 1, 1984 the privacy requirements remained unmet at Faribault State Hospital.

16. It was recommended that the parties and the monitor meet on a quarterly basis to review progress and obstacles to compliance. Meetings have not been scheduled for this purpose.