

Olmstead Subcabinet Meeting

August 22, 2016 – 4:00 p.m. to 5:30 p.m.

Minnesota Housing,

400 Sibley Street, State Street Conference Room, Saint Paul, MN 55101

1. Call to Order

Action: N/A

The meeting was called to order at 4:02 p.m. by Commissioner Mary Tingerthal (Minnesota Housing).

2. Roll Call

Action: N/A

Subcabinet members present: Mary Tingerthal, Chair, Olmstead Subcabinet (Minnesota Housing); Shawntera Hardy (Department of Employment and Economic Development); Colleen Wieck (Governor's Council on Developmental Disabilities); Roberta Opheim (Ombudsman for Mental Health and Developmental Disabilities); Tom Roy (Department of Corrections); Kevin Lindsey (Department of Human Rights) arrived at 4:15 p.m.

Designees present: Daron Korte (Department of Education); Chuck Johnson (Department of Human Services); Sue Mulvihill (Department of Transportation); Gil Acevedo (Department of Health).

Guests present: Tona Willand, Wade Brost, Kim Anderson, Carol LaBine, Colin Stemper, Alex Bartolic, Erin Sullivan Sutton, Claire Wilson, Joe Sathe, and Adrienne Hannert (Department of Human Services); Mike Tessneer, Rosalie Vollmar, Tristy Auger, and Darlene Zangara (Olmstead Implementation Office); Anne Smetak (Minnesota Housing); Jayne Spain (Department of Education); Kristie Billiar (Department of Transportation); David Sherwood-Gabrielson (Department of Employment and Economic Development); Matthew Porett and Ellena Schoop (MN.IT); Stephanie Lenartz (Department of Health); Anna McLafferty (Department of Corrections); Christina Schaffer (Minnesota Department of Human Rights); Pam Taylor (Minnesota Statewide Independent Living council (MNSILC)); Maia Uhrich (Governor's Office); Marge Hartfel (Southside Services); Melody Johnson (Department of Administration); Charlie Vander Aarde (Metro Cities); Roseanne Fabor and Lori Dusan (members of the public).

Guests present via telephone: Kim Pettman (member of the public).

3. Agenda Review

There were no changes to the agenda.

4. Approval of Minutes

a) Subcabinet meeting on July 25, 2016

The July 25, 2016 Subcabinet meeting minutes were approved as written.

Motion: Approve the July 25, 2016 Subcabinet meeting minutes.

Action: Motion – Johnson. Second – Hardy. In Favor – All

5. Reports

a) Chair

Commissioner Tingerthal reported the following:

- The first phase of public comments on the plan for the Prevention of Abuse and Neglect is complete. Eleven comments were received and incorporated into the working draft. The draft Plan for the Prevention of Abuse and Neglect will be posted to the website on September 2, 2016 for the second phase of public comments. Public comments will be accepted through September 11, 2016. An Executive Committee meeting may be necessary if the comments submitted are extensive and a work session is needed.

b) Executive Director

Executive Director Darlene Zangara reported the following:

- The Quality of Life Request for Proposal (RFP) was posted on August 8, 2016 and proposals are due August 29, 2016. An evaluation team has been developed to review the proposals. She hopes to select a vendor by September 8, 2016.
- The OIO office posted a Communications and Community Engagement job position with an extended closing date of August 25, 2016.
- An update was provided on dispute resolution cases. There were 10 cases received during June and July. Four were resolved with a phone call by providing basic resources and information. Three cases were referred to agencies. Two cases are pending resolution and one is ongoing.

c) Legal Office

Anne Smetak (Minnesota Housing) reported the following:

- The August Quarterly Report is due to be filed with the Court on August 31, 2016.
- Updated workplans are due to be filed with the Court on September 30, 2016.

- The Court has not issued a response on the Preventing Abuse and Neglect and Assistive Technology workplans submitted August 1, 2016.
- A status conference with the Court is expected to be scheduled in December.

d) Compliance Office

Mike Tessneer (OIO Compliance) reported the following:

- The process for the annual review and refresh of the workplans has begun. The OIO Compliance office met with agency staff to review the process and provide a format to use in this process. The workplans are scheduled to be reviewed at the September subcabinet meeting.

In response to a question by Colleen Wieck (Governor’s Council on Developmental Disabilities), Mr. Tessneer confirmed that the workplan amendment process occurs in September and the Plan amendment process occurs in January. Depending on the extent of the Plan amendments it is possible that there may need to be some minor updates to the workplans following the amendments.

6. Action Items

a) August 2016 Quarterly Report on Measurable Goals

1. Review and Approve Quarterly Report on Measurable Goals

A blackline version of the Quarterly report was distributed at the meeting. The blackline reflected changes to the report since it was circulated on August 15. The changes were made to clarify information and ensure accuracy.

Mike Tessneer (OIO Compliance), reported on the August 22, 2016 Quarterly Report for data acquired through July 31, 2016. In summary, there were 19 goals reviewed. Of the 19 goals:

- 3 goals were met
- 1 goal was not met
- 5 goals were on track
- 2 goals were not on track
- 1 goal was delayed
- 7 goals were in process

Agency sponsors/leads provided a brief summary of each measurable goal and answered questions from the members of the Subcabinet. The complete information on results, analysis of data, timeliness of data and comments on performance is included in the August Quarterly Report posted on the Olmstead Plan website.

Deputy Commissioner Chuck Johnson (DHS) reported on the 16 goals that DHS is responsible for as follows:

- **Transition Services 1A**

The 2016 goal is to have 84 people move from ICFs/DD to more integrated settings. In the first six months of state fiscal year 2016, 39 people moved from an ICF/DD to a more integrated setting. The goal is on track to meet the annual goal.

- **Transition Services 1B**

The 2016 goal is to have 740 people move from Nursing Facilities (people with a disability under 65 in facilities longer than 90 days) to a more integrated setting. In the first six months of state fiscal year 2016, 411 people under the age of 65 have moved to more integrated settings. The goal is on track to meet the annual goal.

- **Transition Services 1C**

The 2016 goal is to increase the number of people who have moved from other segregated housing to a more integrated setting to 250. Reporting on this goal is delayed because data is not available due to limited information technology resources and competing data priorities for other goal areas. OIO Compliance staff is working with DHS to ensure the agency puts the necessary processes and timelines in place so that the data will be collected and verified. A new deadline has been established for January 2017.

In response to questions from Commissioner Tingerthal (Minnesota Housing) regarding progress on the goal and any barriers, Alex Bartolic (DHS) stated that people are moving from segregated to more integrated settings. People are using support services like housing access services to help individuals find housing. There is also a program through ARC Minnesota, which is serving about one person per day to move into their own home. The current housing market and cost of rentals makes it a challenge. Another barrier relates to workforce issues. Service providers are saying that they are having a hard time maintaining an adequate number of staff.

In response to questions from Commissioner Tom Roy (DOC), Erin Sullivan Sutton (DHS) stated the gap between the group residential housing subsidy and a typical market-based rent varies and is dependent on: the rental rate, whether a person has their own income, and whether they need supplemental services. A person with no personal income would receive a room and board benefit of \$891. The cost for rent

varies on the location of the rental. Commissioner Tingerthal added that the average rental in the metro area is upwards of \$900 to \$1,000 for a one-bedroom apartment.

Roberta Opheim (OMHDD) added that she hears from individuals concerned that using the subsidy results in a lack of disposable income for other expenses. She also noted that a lack of rental history and any type of criminal history are common barriers to housing.

Commissioner Tingerthal noted that funding was provided in the last legislative session for a Landlord Guarantee Fund, where landlords willing to participate in the program who experience a loss due to actions of a tenant can make a claim for that loss. Guidelines for the program are currently being established.

- **Transition Services 2**

The 2016 goal is to reduce the percent of people awaiting discharge from Anoka Metro Regional Treatment Center (AMRTC) to 35% or less. This quarter there were 38.3% awaiting discharge, with the annual average being 42.5%. The 2016 annual goal was not met.

The biggest challenge in achieving this goal is the number of people entering AMRTC through the criminal justice system. A lot of the beds at AMRTC have been used for people who are part of the competency restoration program. The legislature approved funding and authorized a separate competency restoration program located at Minnesota Security Hospital. Once that is in place, about 20 beds in Anoka will be available for people who need hospital level of care. The goal is to get people out of Anoka, transition them into the community, and find the right placement.

- **Transition Services 3**

The 2016 goal is to increase the average number of monthly discharges from the Minnesota Security Hospital (MSH) to 11 or more people per month. This quarter, the average monthly number of discharges to a more integrated setting was 6.7. The average of the last two quarters was 6. Based on the last two quarters, this goal is not on track to meet the annual goal.

There are similar issues at MSH as at AMRTC. The “Whatever it Takes” grants have been very helpful. The expanded competency restoration program is expected to relieve some of the pressure on MSH. There are two MSH legislative requests that

were not funded. One was a request for new staffing, to provide better clinical care which DHS believes would help people stabilize and transition more quickly. The second was a bonding proposal to reconstruct MSH to be better suited for the different kinds of care that people need.

In response to a question from Commissioner Kevin Lindsey (MDHR), Chuck Johnson (DHS) stated MSH is licensed as a facility for adults.

- **Waiting List 1**

The 2016 goal is to eliminate the Community Access for Disability Inclusion (CADI) waiver waiting list by October 1, 2016. The baseline was 1,420 people on the CADI waiting list. At the end of this quarter, there were 7 people on the CADI waiting list. Based on this quarter's numbers, progress is on track to meet the goal.

In response to a question by Commissioner Tom Roy (DOC), Deputy Commissioner Chuck Johnson (DHS) explained DHS was able to successfully address the CADI waiting list because the legislature removed a cap on funding for the CADI waiver.

- **Waiting List 2**

The goal is that by December 1, 2015, the Developmental Disabilities (DD) waiver waiting list will move at a reasonable pace.

This is the first quarter of data since the start of the new categorization system in December 2015. The waiting list is now structured into 3 categories that reflect urgency of need: those leaving an institution; those with an immediate need; and those with a defined need. DHS expects that all individuals determined eligible for the DD waiver will be categorized under this system by December of 2016.

In response to a question by Roberta Opheim (OMHDD), Alex Bartolic (DHS) explained that questions regarding a client's urgency of services needed under the Developmental Disability (DD) waiver are asked regardless of whether an individual is assessed through MnCHOICES or a legacy tool. Ms. Bartolic agreed to provide the Subcabinet with additional data as to when every person will have completed the MNChoices assessment.

In response to questions by Commissioner Tingerthal (Minnesota Housing) and Roberta Opheim, Ms. Bartolic stated that DHS also plans to provide, in future reports, the number of people who were assessed but did not meet the urgency criteria or were not interested in services at this time.

In response to a question by Colleen Wieck (Governor's Council on Developmental Disabilities), Alex Bartolic stated that people who are on the CADI waiver but really need the DD waiver can request a reassessment.

In response to questions by Commissioner Kevin Lindsey (MDHR) and Roberta Ophem, Alex Bartolic explained that the numbers being reported reflect the point at which individuals are approved for funding, not when they are starting services. Services can be delayed for several reasons, including the time it may take to find a provider. Ms. Bartolic explained that over time, the report can provide more detailed information on the time between when funding is approved and when services begin. Data can also be provided by region for the seven-county metro area and other regions. DHS undertakes a biannual gaps analysis that incorporates the time it takes for services to begin and will consider geographic differences in service delivery.

- **Waiting List 3**

The goal is that by March 1, 2017, the DD waiver waiting list will be eliminated for persons leaving an institutional setting and for persons with an immediate need as defined by Minn. Statutes, section 256B.49, subdivision 11a (b) and 256B.092, subdivision 12(b). At the end of the reporting period there was one person on the waiting list to leave an institutional setting and 10 people on the waiting list for persons with an immediate need. This is the first quarter of reporting on this goal and the data is not sufficient to determine progress on the annual goal.

- **Waiting List 4**

The goal is that by December 31, 2018, within available funding limits, waiver funding will be authorized for persons who are assessed and have a defined need on or after December 1, 2015, and have been on the waiting list for more than three years.

DD waiting list data began being collected in December 2015. Three years have not yet passed since the implementation data. Data will not be available on this goal until December 2018.

- **Waiting List 5**

The goal is that by June 30, 2020, the DD waiver waiting list will be eliminated, within available funding limits for persons with a defined need. At the end of the reporting period there were 74 people on the DD waiting list in the defined need

category. This is the first quarter of reporting on this goal and the data is not sufficient to determine progress on the annual goal.

- **Person Centered Planning 1**

Interim reporting began on this goal in May 2016. Staff is implementing protocols for person centered planning and the baseline is not yet established, so the increase in plans meeting person centered protocols cannot yet be measured. The interim results reports in the Quarterly Report include: the number of cases reviewed, the specific counties in which cases were reviewed, and the recommendations provided to the counties.

- **Positive Supports 1**

The 2016 goal is to reduce the number of individuals experiencing restrictive procedures by 51. The baseline was 1,076 people. This quarter there were reports of 348 people who experienced the use of restrictive procedures on individuals. That number may include duplicated reports for some individuals. The unduplicated count of individuals will be reported in the report on the annual goal in November 2016. It is too early to determine if the annual goal will be met.

- **Positive Supports 2**

The 2016 goal is to reduce the number of reports of restrictive procedures by 409. The baseline was 8,602 reports. This quarter there were 1,039 reports. Based on the past three quarters, progress is on track to meet the annual goal.

- **Positive Supports 3A and 3B**

There are two parts to the June 30, 2016 goals: (3A) to reduce the number of reports of mechanical restraints to no more than 369; and (3B) to reduce the number of individuals approved for mechanical restraints to no more than 25. The baselines were 2,038 reports and 85 approved individuals.

This quarter the number of reports was 168. The number of individuals approved for emergency use of mechanical restraint was 16. The progress is not on track for reducing the number of reports, but is on track for reducing the number of individuals.

In response to questions by Roberta Opheim (OMHDD), Alex Bartolic (DHS) stated the Disability Services Division works with Licensing and if the license holder acted in a way that was contrary to the licensing standards, Licensing completes an

investigation and determines action. Licensing also determines if a license holder is acting within the parameters of the positive support rule 245D.

In response to a question by Commissioner Kevin Lindsey (MDHR), Chuck Johnson (DHS) stated that DHS publishes reports of individual licensing actions taken against a facility on the DHS website. DHS completes a licensing report that aggregates some of the maltreatment data and Chuck Johnson indicated DHS would look into whether the individual licensing actions are or could be included as a separate category.

- **Crisis Services 3**

The 2016 goal is that the number of people who discontinue waiver services after a crisis will decrease to no more than 55 people. The first quarter data is 26 people. This may include duplicated numbers, so it is too soon to tell if progress is on track to meet the goal.

The remaining 3 goals were reported on by representatives from the responsible agencies.

- **Employment 3**

Jayne Spain (Department of Education) reported on Employment Goal 3. The goal is that by June 30, 2016, the number of students with developmental cognitive disabilities, ages 19-21 that enter into competitive, integrated employment will be 125. From October 2015 through June 2016, the number was 137 people. The 2016 annual goal was met.

- **Community Engagement 1A**

Darlene Zangara (OIO) reported on Community Engagement Goal 1A. The 2016 goal is to increase the number of self-advocates by 50. OIO engaged with various self-advocate groups and organizations around the state and increased the number of new self-advocates by 62. Based on these results, the 2016 annual goal was met.

In response to a question asked by Colleen Wieck (Governor's Council on Developmental Disabilities), Darlene Zangara stated that she will verify that the numbers reported are unduplicated. OIO Compliance will work with Darlene to ensure that the data is reliable and valid.

- **Community Engagement 1B**

Darlene Zangara (OIO) reported on Community Engagement Goal 1B. The 2016 goal is to increase the number of people with disabilities involved in a publicly funded project by 50. This quarter there were 56 self-advocates involved in publicly funded projects. Based on these results, the 2016 goal was met.

In response to a question asked by Colleen Wieck (Governor’s Council on Developmental Disabilities), Darlene Zangara stated that she will verify that the numbers reported are unduplicated. OIO Compliance will work with Darlene to ensure that the data is reliable and valid.

In response to a comment from Colleen Wieck, Darlene Zangara agreed to propose a definition for publicly funded projects during the Plan amendment process.

In response to a comment made by Commissioner Kevin Lindsey (MDHR), Darlene Zangara will work with Commissioner Lindsey to identify data related to publicly-funded construction projects (i.e. U.S. Bank Stadium).

Motion: **Approve the Quarterly Report with changes as discussed.**

Action: **Motion – Lindsay. Second – Johnson. In Favor – All**

Quarterly Report Summary of Goals

In response to a comment by Colleen Wieck (Governor’s Council on Developmental Disabilities), the OIO Compliance Office will work with Anne Smetak (Minnesota Housing) to determine how to include summary information on the status of reported goals either as an executive summary in the August Quarterly Report or in a cover letter to the Court.

a) Workplan Compliance Report

Mike Tessneer (OIO Compliance), reported on the Workplan Compliance Report. There were 30 items reviewed in August. One of those items was found to be an exception. Of the 30 total workplan activities:

- 23 items (77%) were completed
- 6 items (20%) were on track
- 1 item (3%) was reported as an exception

- **Crisis Services 3B.2 – Forensic Assertive Community Treatment (FACT) team**

Carol LaBine (DHS) reported that the reason that enrollment in FACT services was delayed was due to difficulty in finding a psychiatrist with the criminal justice

background needed for the FACT Team. A psychiatrist has now been hired and the expected date to begin enrollment is September 30, 2016.

Motion: Approve the Compliance Report.

Action: Motion – Lindsey. Second – Mulvihill. In Favor – All

b) Proposed Adjustments to Workplan Activities

- **Crisis Services 2A.2, 2A.3, 2A.4 (DHS)**

Carol LaBine (DHS) reported on Crisis Services 2A.2, 2A.3, 2A.4 which relate to a pilot project to increase access to children’s mental health crisis services in the school. Proposed adjustments were requested to move the deadline out in order to acquire a sufficient amount of data. The subsequent deadlines regarding a statewide scale-up would also need to be moved out.

- **Crisis Services 2J.3 (DHS)**

There was no discussion on this item; a written report was included in the meeting materials.

Motion: Approve the Proposed adjustments to Workplan activities.

Action: Motion – Roy. Second – Mulvihill. In Favor – All

7. Informational Items

a) Workplan Items requiring report to Subcabinet:

1. Community Engagement 4A.3, Present proposal on formation of a chartered workgroup (OIO)

Chair Tingerthal (Minnesota Housing) requested Subcabinet members to review the proposal on formation of a chartered Community Engagement workgroup and provide any suggested edits to Darlene Zangara (OIO). This will be on the agenda in October.

8. Public Comments

- Lori Dusan (member of the public) reported that she is a parent of a person with disabilities who has concerns regarding the personal care workforce shortage and lack of quality service providers.

In response to comments made by Lori Dusan, Commissioner Tom Roy (DOC) requested the Subcabinet discuss the workforce shortage collectively to identify

what can be done to address the concern. Commissioner Shawntera Hardy (DEED) reported that DEED is committed to working with state agencies to make sure this is included in the Plan. Chair Tingerthal offered that this is an appropriate time to update the workplan to include goals around the workforce shortage since annual revisions to the workplans will be presented to the Subcabinet in September.

- Kim Pettman (member of the public) reported that she is a person with a disability who has concerns regarding agency open-door policies for people with disabilities, disability sensitivity training for all state employees, and inclusion of people with disabilities in decision making and collecting information.

9. Adjournment

The meeting was adjourned at 5:46 p.m.

Motion: **Adjournment.**

Action: **Motion – Lindsey.**

Second: **Mulvihill.**

In Favor - All