



The Jensen Settlement and After: Systemic Changes in the Care of the Developmentally Disabled in Minnesota

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Abstract

In 2009, families of three individuals with developmental disabilities treated in a state residential program filed a lawsuit against the Minnesota Department of Human Services (DHS). The lawsuit alleged, among others, that the program's use of restraints and seclusion violated the civil rights of the individuals. A class action settlement agreement between the families and DHS, termed the Jensen Settlement Agreement, was approved by the US District Court - Minnesota in 2011. The settlement included stipulations on treatment of people with developmental disabilities, including changes in practice of the use of restraints and seclusion in this vulnerable population. These stipulations have since resulted in overhauls in care of this population in Minnesota, in accordance with the Americans with Disabilities Act (ADA) and related civil rights laws. In describing this case and the ongoing challenges with implementing statewide changes in care, this poster aims to demonstrate how through the Jensen Settlement Agreement, the state of Minnesota has aspired to become a national model for bringing about positive change in the quality of life of individuals with developmental disabilities.

Facts of the Case

Mr. Jensen, Mr. Allbrink, and Mr. Jacobs were patients at MN Extended Treatment Options (METO), a residential program for individuals with developmental disabilities run by the MN Department of Human Services (DHS).

Mr. Jensen's parents noticed bruises on his wrists and learned he had been restrained 251 times at METO.

An investigation revealed that 63% of METO's residents had been restrained with one client restrained 299 times in 2006 and 230 times in 2007. Residents were sometimes restrained with handcuffs or leg irons for reasons such as "touching a pizza box."

In 2009, the parents of Mr. Jensen, Mr. Allbrink, and Mr. Jacobs filed a federal class action lawsuit against DHS, alleging that the inhumane use of seclusion and restraints by METO violated the MN Constitution, US Constitution, and MN Rule 40 which governed the use of restraints and seclusion in individuals with developmental disabilities.

In 2011, a class action settlement agreement was reached between the families and DHS and approved by the US District Court-MN.



Jensen Settlement Stipulations

1) METO closed

- 2) Changes to Restraint and Seclusion Policy and Procedures:**
- Restraints or seclusion not to be used for punishment or to change behavior in residents with developmental disabilities.
 - Certain restraints to be used only in emergencies
 - Chemical restraint prohibited in all circumstances
 - Each incident reviewed immediately by an external reviewer

3) Increased DHS Staff Training:

- In positive behavioral supports, person centered approaches, therapeutic interventions, personal safety techniques, crisis intervention, and post crisis evaluation consistent with best practices.



METO Residential Facility

4) Visitation Changes:

- Increased unsupervised resident access to family members at reasonable hours.

5) Reporting and Review:

- DHS must submit all reports of restraint use within 24 hours to external reviewers
- Quarterly reports to Court and regular third party review on the implementation of provisions under the Settlement
- Opportunity for families to provide input and feedback

6) Statewide Systemic Changes

- Extend policies to all people with developmental disabilities in the state
- Individuals with developmental disabilities will live in the least restrictive setting.
- Individuals with only developmental disabilities will not be housed at Security Hospital.
- Expand Community Support Services

Subsequent Updates

Since 2011, DHS has complied with many of the Settlement stipulations:

- METO is now Minnesota Life Bridge which only provides community support services.
- Restraint and seclusion and family visitation policies changed
- DHS staff received increased training
- MN Rule 40 Law removed and replaced with Positive Supports Rule 9544
- Successful Life Project created to maintain people in the most integrated setting by providing community services
- More people with developmental disabilities are moving from segregated settings to less-restrictive integrated settings
- More people are accessing housing waivers in a timely manner

Despite these efforts, DHS has not been able to achieve full compliance with the Settlement, particularly as many people still live in segregated settings.

Discussion and Ongoing Challenges

The difficulty DHS has had in fully complying with the Settlement Agreement reflects the challenge of implementing systemic changes in care. Housing individuals with developmental disabilities in the least restrictive setting is particularly difficult. Several overarching challenges have become apparent over the years of implementation:

- 1) Lack of less-restrictive integrated facilities**
- Many individuals require fully-staffed homes
 - Results in placement being very challenging

- 2) High cost of systemic changes**
- Creating less-restrictive settings
 - Creating more community support services

- 3) Large culture shift in care delivery**



US District Court Judge Donovan Frank

DHS continues to tackle these challenges and strive toward full compliance. The District Court's oversight has extended until December 2019 to ensure compliance with the Agreement.

References

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