



**New Jersey State Legislature
Office of Legislative Services
Office of the State Auditor**

**Department of Human Services
Division of Developmental Disabilities
Olmstead Placements from North Jersey and
Woodbridge Developmental Centers**

July 1, 2011 to October 31, 2015

**Stephen M. Eells
State Auditor**

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Enclosed is our report on the audit of the Department of Human Services, Division of Developmental Disabilities, Olmstead Placements from North Jersey and Woodbridge Developmental Centers for the period of July 1, 2011 to October 31, 2015. If you would like a personal briefing, please call me at (609) 847-3470.

A handwritten signature in black ink that reads "Stephen M. Eells".

Stephen M. Eells
State Auditor
July 6, 2016

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Scope

We have completed an audit of the Department of Human Services, Division of Developmental Disabilities (DDD), Olmstead Placements from North Jersey and Woodbridge Developmental Centers from July 1, 2011 to October 31, 2015. The primary objective of Olmstead is to transition individuals with developmental disabilities from developmental centers to the community.

As of October 7, 2015, the division provided services to more than 23,400 clients with developmental disabilities including intellectual disabilities, autism, cerebral palsy, epilepsy, spina bifida, and other neurological impairments. Over 21,800 of the clients live in a community setting, of which 9,800 clients reside in group homes, supervised apartments, supportive living facilities, or with sponsor families, while the other 12,000 reside at home with family. The approximate 1,600 remaining clients reside in one of the five remaining developmental centers. The division had 123 clients remaining in developmental centers that are considered Olmstead eligible as of February 2016.

Objectives

The objective of our audit was to determine if DDD completed the required process prior to placement for residents from the North Jersey and Woodbridge Developmental Centers that were relocated into community-based group homes per the Olmstead decision. Once placed, we also determined if DDD monitored these clients in accordance with their policies.

This audit was conducted pursuant to the State Auditor's responsibilities as set forth in Article VII, Section I, Paragraph 6 of the State Constitution and Title 52 of the New Jersey Statutes.

Methodology

Our audit was conducted in accordance with *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

In preparation for our testing, we studied legislation, the administrative code, and policies of the division. Provisions that we considered significant were documented and compliance with those requirements was verified by interview and through our review of client case records.

A nonstatistical sampling approach was used. Our sample was designed to provide conclusions about whether the division completed the proper paperwork and documentation prior to and after placement and whether the DDD properly monitored the client after placement.

Conclusions

We found the DDD completed the required procedures for relocating residents from the North Jersey and Woodbridge Developmental Centers into community-based homes per the Olmstead decision. We also determined the division monitored these clients in accordance with their policies after placement; however, we noted required visits were not always timely and recurring issues with client care or with provider services were not always resolved timely, as well as other matters.

Background

In 1999, the US Supreme Court ruled in the case of *Olmstead v. L.C.* that the unnecessary segregation of clients with disabilities in institutions may constitute discrimination based on disability. The ruling states that services must be delivered in the least restrictive environment available within the parameters of a state's program. New Jersey contracts with private providers to serve many of the eligible adults with developmental disabilities.

In 2013, the State of New Jersey settled a lawsuit with Disability Rights New Jersey (DRNJ), a private, non-profit advocacy group for the disabled. The settlement agreement provides a timeline for the placement of eligible clients residing in state-operated developmental centers into a community-based setting appropriate to their needs. The agreement requires the state to provide community placements for at least 600 clients residing in developmental centers between fiscal year 2013 and fiscal year 2017 based on the following schedule:

Fiscal Year	Community Placements	Cumulative Total
2013	90	90
2014	115	205
2015	115	320
2016	115	435
2017	165	600

As a result of the Olmstead decision and the settlement agreement, the census population within the developmental centers has decreased. In 2012, the legislated Task Force on the Closure of State Developmental Centers made binding recommendations as to which centers should be closed. North Jersey Developmental Center was closed July 1, 2014 and Woodbridge Developmental Center was closed January 9, 2015.

Once a developmental center resident is identified as being community placement eligible and a provider is identified, a number of meetings are required to take place. These meetings include the client, their guardian if applicable, and members of the client's Interdisciplinary Team. Clients moved from a developmental center to the community are also monitored by the Olmstead transition team. Additionally, DDD policy requires case managers to visit all clients on a quarterly basis, at a minimum. As of October 2014, case managers are also required to communicate with the provider monthly.

Monitoring of Olmstead Clients

The division needs to improve the timeliness of client visits and resolving recurring issues.

Timeliness of Caseworker Visits

The division's case managers monitor clients who have been transitioned to a community residential setting. The division requires the case managers to conduct visits with clients within the first 30 days, 60 days, 90 days, and 180 days, one year, two years if needed.

We judgmentally selected 40 clients (20 from Woodbridge and 20 from North Jersey) of the 204 clients that were placed in the community from the Woodbridge and North Jersey Developmental Centers as of November 10, 2014. We reviewed all case records for the 40 clients to determine if the division performed the required monitoring of clients. We found that all required visits were conducted; however the visits in some clients' cases were not within the required time period.

Overdue Visits

Visit	Number of clients	Average days overdue
30 day	2	28
60 day	10	14
90 day	17	17

In addition, the division's policy requires that one of the first three visits occur at the client's day program. We found evaluations for 28 of the 40 clients reviewed either did not occur at the day program or the location was not documented by the case manager in the client record.

Recurring Issues

The case managers are the primary advocates for the clients. The face-to-face monitoring by the case manager ensures the client's needs and outcomes are being met and the transition continues to be successful. At the end of each visit, the case manager completes a report which contains critical information regarding the client's service plan including, but not limited to, reviews of medication administration records; dietary requirements; hygiene, medical and dental records; participation in day programs/community activities, and reviews of client finances.

We reviewed all the sampled clients' records including the required reports prepared by the case managers from the time the client was identified as being community placement eligible to the last case manager note found as of September 15, 2015.

We did not evaluate if a client was achieving their living goals. Our review focused on prior to placement activities and the monitoring of the client and provider agency by DDD personnel after placement. We also focused our review to determine if there were recurring issues with

client care or provider services.

We found that 15 of 40 clients tested did not have recurring deficiencies noted in their records. This is not to state that the 15 clients did not have issues with care or services, but that the issues were resolved by the provider in a timely manner and did not require further attention by the division.

The remaining 25 client records had recurring deficiencies documented that were not resolved in a timely manner. Our determination was based on the required documentation by the case managers. In these cases, the case managers had reported the same type of issue several times because the provider had not taken corrective action. The recurring deficiencies included the following: missing or broken durable medical equipment; lack of activities outside the home; providers not satisfying procedural and contractual documentation obligations to the division; missed doctor visits; group homes with provider staffing issues; medication administration and documentation issues; financial issues; client-specific dietary issues; and a lack of good client hygiene.

We have noted the following significant examples where recurring issues were not resolved in a timely manner.

- ***Client 1***

Client 1 was placed into the community in February 2013. Client 1's case file had noted 24 times over the course of two years that the client did not have a properly functioning wheelchair resulting in the inability to attend outside day program sessions. The wheelchair was repaired; however, it broke again. There were two functioning wheelchairs made available to the client, however it was noted that both chairs were inappropriate for the client. Between March 2014 and May 2014, the client missed 35 consecutive days of day program outside the home due to the wheelchair. It was the responsibility of the provider to obtain the proper prescription so the client could receive a new wheelchair. The client received a custom wheelchair in August 2015.

- ***Client 2***

New Jersey Administrative Code 10:44A-5.5 requires food be readily accessible to clients receiving services unless limits have been approved by the Interdisciplinary Team. Client 2 was placed into the community on May 30, 2014. Client 2's Individual Habilitation Plan (IHP)/Comprehensive functional assessment states the client's diet should be a "soft low fat/low cholesterol diet cut into bite sized pieces with chopped bread (½ inch by ½ inch) – no dairy product (lactose intolerant/soy milk in place of milk)."

Additionally, their IHP states Client 2 is a "choking risk, and should be on 1:1/close supervision during meals". The Supports Needed Checklist notes that the client requires "altered consistency of food" under dietary supports.

The case manager noted concerns five times in one month for Client 2. On three occasions, a temporary provider staff gave Client 2 milk or milk products (pudding). On one occasion the client got sick. The group home staff reported "this probably happened because the temporary staff this morning may have given the client milk and the client is lactose intolerant." The case manager later wrote that the group home staff also reported that there are always two temporary staff working Thursdays through Saturdays and they do not always review the clients' menus when they come in and are unfamiliar with all the clients' behaviors.

On two occasions, temporary provider staff gave Client 2 hard pretzels and uncut foods even though the client is on a soft, bite-sized diet. In addition, the case manager spoke with the client's day program staff, who reported that the group home was not sending appropriate food, and the food was not always chopped small enough. The same case manager reported in the case notes on February 19, 2015, that during a surprise face-to-face visit with Client 2, despite being on a soft ground diet, the client was eating hard pretzels.

The provider agency received training on Client 2's diet on March 12, 2015.

- ***Client 3***

Client 3 was placed into the community May 2014. The client's records disclosed that the case manager noted seven times between June 2014 and January 2015 that the Behavior Support Plan (BSP) was pending review for approval and not yet implemented. A BSP is a clinical intervention designed to modify identified behaviors. BSPs are reviewed by and approved by the client's Interdisciplinary Team. In September 2014, the case manager also noted how they stressed the importance of a BSP to the provider. Medical issues were also noted eleven times for the nine-month period between June 2014 and February 2015 including the need for medical appointments, missed appointments, and the client refusing services. It was noted by the case manager in two instances the missing of appointments was due to behaviors.

- ***Client 4***

An Individual Habilitation Plan (IHP) provides clients and those people close to the client with a service plan specific to the client. An Adaptive Behavior Scale/Health Safety Risk Assessment (ABS/HSRS) is an assessment tool used to identify an individual's needs in several key areas including Health/Medical, Adaptive Equipment, Behavior, Supervision, etc. Client 4's records disclosed the case manager noted five times between January 2013 and May 2013 the client's day program was not a good fit. The 180-day Olmstead review dated May 2013 noted that a request submitted for another day program could not be completed until the IHP and ABS/HSRS were completed. Between May 2013 and January 2014 there was no mention of the client's day program. The case manager was previously told by the staff at the day program that the client was doing fine. During an IHP meeting in January 2014 the case manager put in a referral requesting a new day program because once

again it was determined the existing day program was not a good fit. The client was not placed into a new day program until September 30, 2014.

Recommendation

We recommend the division conduct visits within the required time frames. The case manager should also be required to note the meeting location in the client record. The division should track, review, and prioritize recurring issues that are documented in client case records and resolve these issues in a timely manner. If issues are not resolved timely by the provider, the division should consider implementing monetary fines.

Missing Documentation

The division could not provide a Supports Needed Checklist (SNC) for all Olmstead clients.

The purpose of the division's Olmstead procedure for a Supports Needed Checklist (SNC) is to identify supports, services, and equipment needed to ensure a client has a safe and successful transition from a developmental center to a community residence. The SNC is included in the client file and reviewed weekly prior to placement by the case manager to ensure that progress is being made towards the client's safe and successful transition. The document is a summary of the client's overall service plan, and is used in determining whether or not a community residence adequately meets the client's needs.

We reviewed 40 clients' case records and found that 11 did not have the SNC. The division asserts that the original SNC documents had likely been created and maintained on the Woodbridge or North Jersey Developmental Centers' hard drives. When the facilities were closed, the hard drives were destroyed as required by state policy. The division was able to retrieve 3 of the 11 missing documents on their backup system. Although not easily attainable, the information on the SNC can be found elsewhere in the client's file.

Recommendation

We recommend the division enforce their policy to include the SNC in the client's file and create a procedure to verify that it is done before the transition takes place. We also recommend the division maintain safeguards to protect client records.

Timely Placement Meetings

Pre-placement meetings are not always held within the required 60 days of the clients placement into the community.

Based on the division's Olmstead procedures, the purpose of the pre-placement meeting (PPM), is to review the service plan, establish a move date, finalize the transition plan, ensure provider agency staff are scheduled for any necessary training, verify managed care paperwork has been

completed and physicians have been identified, provide the agency with the prescriptions and letter of justification for relevant durable medical equipment for the client, verify the type of day program, and wrap-up any miscellaneous details. The pre-placement meeting is to be held at the developmental center approximately 60 days prior to the move date. If the meeting does not occur within 60 days, the case manager must review the pre-placement meeting outlined to ensure it remains appropriate.

We found that pre-placement meetings occurred greater than 60 days prior to placement for 17 of the 40 clients that we sampled. For 15 of those 17 clients, the pre-placement meeting took place 100 days or more prior to the placement. While it is understandable that dates change, we found no evidence in the case records that suggested that the clients' needs were re-evaluated to ensure that they remained the same. Failure to follow policy and procedures by case managers could lead to health and safety concerns not being addressed prior to the move.

Recommendation

We recommend that the division implement a policy requiring a case manager to ensure the pre-placement plan remains appropriate.

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Lt. Governor

June 27, 2016

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Dear Mr. Termyna:

This letter provides the Department's formal response to your office's audit report entitled "Department of Human Services, Division of Developmental Disabilities, Olmstead Placements from North Jersey and Woodbridge Developmental Centers, July 1, 2011 to October 31, 2015."

OLS Recommendations

We recommend the division conduct visits within the required time frames. The case manager should also be required to note the meeting location in the client record. The division should track, review, and prioritize recurring issues that are documented in client case records and resolve these issues in a timely manner. If issues are not resolved timely by the provider, the division should consider implementing monetary fines.

We recommend the division enforce their policy to include the SNC in the client's file and create a procedure to verify that it is done before the transition takes place. We also recommend the division maintain safeguards to protect client records.

We recommend that the division implement a policy requiring a case manager to ensure the pre-placement plan remains appropriate.

Response

The Department of Human Services ("Department") generally agrees with the OLS recommendations and concurs with the findings of the audit. The Department notes and appreciates the auditors conclusion that the Division of Developmental Disabilities' completed the required procedures for relocating residents...into community-based homes per the Olmstead decision...and determined that the division monitored these clients in according to its policies after placement.' The Department, however, would like to provide context to a few areas discussed in the audit.

Timeliness of Client Visits

The Department notes that circumstances often arise with clients that require postponement or rescheduling visits, particularly as it relates to physician appointments and/or recreational activities with their group home agency and housemates. When these circumstances occur, staff now will document those details in the client's case notes. The Division of Developmental Disabilities ("Division") has made similar revisions to its processes, such as in 2015 when the reporting form was modified to account for the location of the client visit.

Re-occurring Issues

It is important to note that a summary of case notes and reports may not provide the full context of the dynamic circumstances surrounding a client's situation. The list of "recurring issues" contained in the audit report are varied both in type and in their implications for health and safety, thus the approach in responding will also likely vary. In the case of Client 2, this case shows how management staff appropriately and swiftly responded where health and safety is implicated. Whereas, in the case of Client 4, some action is required for the benefit of the client, but the lack of immediate urgency is also beneficial because it allow allows time to identify the best available solution.

As the report notes, the audit did not evaluate "whether the person was achieving their living goals," nor does the report assess whether or how the "recurring issues" identified impacted the quality of the individual's life. In fact, some of the "recurring issues" cited in the report would not be considered problematic by the Division when looking holistically at the individual's changing needs. The report also does not include other remediation efforts the Division may have been undertaking with regard to a particular problem or provider agency. For example, the Division provides enhanced scrutiny of provider agencies that come to the attention of management due to significant concerns about quality. There are a number of ways that concerns about an agency's performance may arise. Notably, three of the four clients listed for significant issues were placed at an agency that came under this enhanced monitoring. As such, the agencies in question were placed on a moratorium for new admissions and development, a plan of correction, and increased monitoring. Many of these remedies would not be documented as part of case notes for a particular consumer as the remedy is program or agency-wide. As such, without the use of a methodology that extends beyond the review of reports and case notes, it is impossible to fully evaluate the Division's response.

Tracking

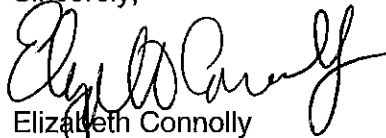
Respectfully, the Division believes that additional tracking, reviewing and prioritizing is unnecessary, as this presently occurs in the context of case management. Where division management is involved in addressing concerns with a particular provider agency, the Division can and has undertaken measures such as additional oversight, suspending admissions and/or development, increasing monitoring, and initiating negative contract action.

Pre-placement Meetings

As indicated in the Audit Report, dates sometimes change and pre-placement meetings sometimes are not held within the 60 day time frame. When this occurs, the Division staff review the transition plan to ensure that it continues to meet the client's needs. These reviews were not documented in the client records. Staff has been counseled to provide appropriate documentation.

Thank you for the opportunity to provide a response. If you have any questions or require additional information, please contact Christopher Bailey at (609) 984-5382.

Sincerely,

A handwritten signature in black ink, appearing to read "Elizabeth Connolly". The signature is fluid and cursive, with the first name being the most prominent.

Elizabeth Connolly
Acting Commissioner

C: Helen Dublas, OLS