

Staley Lawsuit Settlement Agreement Progress Report #4 – Issued 01/25/06

I. INTRODUCTION

Below is the fourth progress report by the Department of Human Services (Department) on the implementation of the Staley Settlement Agreement. This report provides a status update, major informational points, and general data on the implementation of the Agreement for the twelve-month period of November 1, 2004 to October 31, 2005.

The activities for this period continue efforts to:

- Implement the specific expectations of the Settlement Agreement as modified;
- Develop and clarify policies and procedures to help assure the efficient/effective delivery of support services;
- Enhance and maintain communication among key stakeholders; and
- Develop and implement effective quality assurance and data systems.

II. SUMMARY OF IMPLEMENTATION ACTIVITIES:

This section will be presented in four parts. The first represents efforts specific to meeting the provisions of the Agreement. The second reflects efforts within the delivery system as a whole as they relate to the services created by the Agreement. The third is efforts related to quality assurance and information systems. The fourth represents key and immediate planning activities related to implementing the Agreement that were discussed but the actions were pending at the time of this report.

A. Activities Specific to Implementing the Agreement

Below is a list of key activities during the reporting period that relate to implementing the provisions of the Staley settlement agreement.

1. The Department requested and received from the 2005 Legislature funds to continue implementation of the Agreement.
2. All planned revisions to the support service rate guidelines were completed.

3. Contracted for a revision to the SPD Expenditure Guidelines for support services. The contractor's revision was received in June 2005.
4. Planned revisions to the tool for determining the "Supplement to Base" benefit level were completed and fully implemented.
5. Planning was initiated for the eventual enrollment (targeted for October 2006) into Support Service Brokerages of individuals currently receiving Semi-Independent Living Program services.
6. Planning was initiated for the required non-crisis comprehensive service development for 130 individuals within the 05-07 biennial period.
7. A training for Brokerage staff was conducted around wage and hour laws and regulations as they related to in-home type services. This training was delivered by a representative of the Bureau of Labor and Industries.
8. Completed the process for people receiving State Plan Personal Care services to receive these services via support services funding once enrolled in a Brokerage.
9. Participated with stakeholder group in developing the "The Roadmap to Support Services".
10. Ongoing meetings with the Plaintiff representatives as well as other key stakeholder groups were continued. Routine meetings with key stakeholders groups were principally in the form of planned:
 - a.) Bi-monthly meetings with the Staley Implementation Group (SIG);
 - b.) Monthly meetings with the County Mental Health Directors Association's developmental disability sub-committee;
 - c.) Monthly meetings with the County Developmental Disability Program Managers;
 - d.) Monthly meetings with the Support Service Brokerage Executive Directors;
 - e.) Periodic meetings with service provider entities, generally through attendance at the Oregon Rehabilitation Association quarterly meeting.
 - f.) SPD staff also met on a frequent basis at a county level basis with Brokerage Executive Directors and county developmental disability program staff.

B. Participation in System-Wide Activities

In regard to systems-wide activities that relate to the implementation of the Staley Settlement Agreement, SPD and/or other Department staff:

1. Continued efforts to improve employment-related results from joint efforts between Oregon Vocational Rehabilitation Services (OVRs) and Support Service Brokerages.
2. Participated with OVRs staff in the planning and submission of a Medicaid Infrastructure Grant targeted for improving employment opportunities for people with disabilities.
3. Participated with SPD staff in the writing and submission of a Medicaid System's Transformation grant for improving rate setting, payment methodologies, and quality assurance for developmental disability services.
4. Continued work with the Department's Office of Investigations and Training to implement effective procedures and guidelines for conducting protective service investigations and activities in individual or family homes. Training on these procedures and guidelines was conducted.
5. Continued participation on the workgroup and process for distributing available Fairview Housing Trust funds.
6. Continued participation in the design and content of an update to the Department's web page. Key information about Support Services has been posted on this web and continues to be updated.
7. Worked with the Department-wide effort to plan for the implementation of the Medicare Modernization Act.
8. Participated in the Department initiative to upgrade the primary and associated Medicaid payment systems required of the state by Federal government.
9. Continued participation in the Oregon Department of Education Transition Advisory Committee.

C. Quality Assurance and Information Systems

Efforts to improve quality assurance and information systems were enhanced during this past reporting period. Key activities or accomplishments were:

1. The continued implementation of the quality assurance plan based on the Centers for Medicare and Medicaid Services (CMS) expectations for services funded by a Home and Community Base

Services waiver. Results from these activities were presented to the Staley Implementation Group.

2. The continued implemented of a “field review” process conducted by members of the Staley implementation unit staff. Results from field reviews were presented to the Staley Implementation Group.
3. Continued follow-up activities associated with the internal Department audit of support services. This included contracting with an independent party to identify and catalogue the internal QA controls typically used by support Brokerages.
4. Continued participation in the activities related to the CMS funded quality assurance grant awarded to the Department to improve practices related to assuring the health and safety of people receiving in-home services.

D. Strategic Planning Activities and Considerations

During this report period one key strategic planning issue central to implementing the settlement agreement was discussed but no implementation activities were finalized. This issue is the process to confirm projections of individuals eligible for support services and the resulting Support Service Brokerage capacity needs. Central to this is the implementation of a new process to improve SPD’s wait list enrollment and documentation process.

III. SERVICE DATA – Support Services

A. Demographic Information

Based on available information, below are tables representing basic demographic information for adults receiving support services through Brokerage operations. This information comes from 3,700 records in the Department’s Client Process Monitoring System (CPMS).

1. The following table displays the distribution by percentage of the age of individuals receiving support services through Brokerage operations.

Age	%
18-20	7%
21-30	44%
31-40	23%
41-50	15%
51-60	9%

61-70	2%
71 plus	<1%
Total	100

Compared to the prior reporting period, this data indicates no significant shift in the age distribution of individuals enrolled.

2. The following table displays the distribution by percentage of the gender of individuals receiving support services through Brokerage operations.

Gender	%
Female	46%
Male	54%
Total	100%

Compared to the prior reporting period, this data indicates a shift in the data with more men being served than women.

3. The following table displays the distribution by percentage of the race/ethnicity of individuals receiving support services through Brokerage operations.

Race/Ethnicity	%
White (non-Hispanic)	76%
Black (non-Hispanic)	1%
American Indian	1%
Alaskan Native	0%
Asian, Pacific Islander	7%
Hispanic (Mexican)	3%
Hispanic (Puerto Rican)	2%
Other Hispanic	0%
Hispanic (Cuban)	1%
Southeast Asian	1%
Unknown	8%
Total	100%

Compared to the prior reporting period, this data indicates a 2% decrease in the category of White (non-Hispanic). There is also a 3% increase in the unknown data category.

4. The following table displays the disability characteristics of individuals receiving support services through Support Service Brokerage operations. This table represents the percent of people served who have been indicated as having the particular characteristic listed. Some individuals have more than one disability characteristic listed.

Disability Characteristics	%
Cerebral Palsy	14%
Seizure/Epilepsy	18%
Mental Retardation	95%
Motor Dysfunction	29%
Behavior Dysfunction	37%
Other Health Impairment	26%
Communication Dysfunction	51%
Visual Dysfunction	21%
Auditory Dysfunction	8%

Compared to the prior reporting period, the data indicates no significant change in disability characteristics of those enrolled. There was a 2% increase in people with Other Health Impairments. No other disability characteristic had more than a 1% change.

5. The following table displays the distribution by percentage of the living arrangements of individuals receiving support services through Brokerage operations.

Living Arrangement	%
Alone	9%
Spouse	2%
Parents, Relative, Children	79%
Non-Relative Foster Care	2%
Friend or Other	3%
Unknown/Not Specified	5%
Total	100%

Compared to the prior reporting periods, the data indicates no significant shifts in the pattern of living arrangements of people enrolled in Brokerages.

B. Enrollment, Termination, and Transfer Data

1. The table below displays the pattern of enrollments by three-month periods into Support Service Brokerages as reported by the Brokerages since the inception of services.

Period #	Period by Quarter	Total # Enrolled Per Quarter	Cumulative Enrollments
1	11/1/01 to 1/31/02	501	501
2	2/1/02 to 4/30/02	543	1044
3	5/1/02 to 7/31/02	339	1383
4	8/1/02 to 10/31/02	357	1740
5	11/1/02 to 1/31/03	232	1972
6	2/1/03 to 4/30/03	9	1981
7	5/1/03 to 7/31/03	755	2742
8	8/1/03 to 10/31/03	137	2879
9	11/1/03 to 1/31/04	108	2987
10	2/1/04 to 4/30/04	114	3101
11	5/1/04 to 7/31/04	236	3337
12	8/1/04 to 10/31/04	175	3512
13	11/1/04 to 1/31/05	182	3694
14	2/1/05 to 4/30/05	236	3930
15	5/1/05 to 7/31/05	189	4119
16	8/1/05 to 10/31/05	83	4202

2. The table below displays the reason for enrollment into Support Service Brokerages by category since the inception of services.

Reason For Enrollment – total enrollment period	Total	%
Self-Directed Support Program Transition	832	20%
Crisis/Diversion	122	3%
Relative Foster Care Transition	9	0%
Aging (over 75 years of age) Caregivers	60	1%
Family Support/Children's In-Home Support Transition	140	3%
High School Transition	489	12%
General Adult Wait List	1553	37%
Adult Vocational Services Transition	868	21%
Dual Waiver Transfer	129	3%
Total	4202	100%

This table indicates that 56% of the total enrollments have been in the wait list related categories of Crisis/Diversion, Aging Caregivers, Family Support/Children’s In-Home Transition, High School Transition, and General Adult Wait List. These are all individuals who are either on the current wait list or would otherwise be placed on the wait list for support services due to their pending termination of services because of age or other circumstances. This represents a 7% increase in these enrollment categories over the last report.

The remaining enrollments (44%) were individuals already receiving adult services but these services met the definition of support services as defined in the Staley settlement agreement. These categories are the Self-Directed Support Program Transition, Adult Vocational Services Transition, and Dual Waiver (people also receiving service under a separate Home and Community-Based waiver program). These groups of individuals were enrolled into Support Service Brokerages under a separately planned schedule.

3. The two tables below displays the wait list related enrollment reason categories distinguished between the prior and current reporting periods.

Reason For Enrollment – 10/1/03 through 10/31/04	Total	%
Crisis/Diversion	62	12%
Aging (over 75 years of age) Caregivers	21	4%
Family Support/Children’s In-Home Support Transition	64	12%
High School Transition	283	53%
General Adult Wait List	103	19%
Total	533	100%

Reason For Enrollment – 11/01/04 through 10/31/05	Total	%
Crisis/Diversion	43	7%
Aging (over 75 years of age) Caregivers	16	2%
Family Support/Children’s In-Home Support Transition	50	8%
High School Transition	187	29%
General Adult Wait List	356	55%
Total	652	100%

This data shows the trend of a shift in enrollments by 36% from all other reasons for enrollment to the general wait list reason.

4. The table below represents terminations from the beginning of support services by three-month periods through the end of the report period.

Period #	Period by Quarter	Total # Terminations Per Quarter	Cumulative Terminations
1	11/1/01 to 1/31/02	7	7
2	2/1/02 to 4/30/02	13	20
3	5/1/02 to 7/31/02	35	55
4	8/1/02 to 10/31/02	26	81
5	11/1/02 to 1/31/03	51	132
6	2/1/03 to 4/30/03	46	178
7	5/1/03 to 7/31/03	30	208
8	8/1/03 to 10/31/03	30	238
9	11/1/03 to 1/31/04	33	271
10	2/1/04 to 4/30/04	31	302
11	5/1/04 to 7/31/04	40	342
12	8/1/04 to 10/31/04	40	382
13	11/1/04 to 1/31/05	36	418
14	2/1/05 to 4/30/05	42	460
15	5/1/05 to 7/31/05	52	512
16	8/1/05 to 10/31/05	47	559

5. Five hundred and fifty-nine (559) people have enrolled into Support Service Brokerages and subsequently left support services. Of this total 382 left in the prior reporting periods and 177 left during the current reporting period. The table below displays by overall percentage the reason listed for all those leaving support services.

Termination by Reason – Total Enrollment Period	Total	%
Deceased	45	8%
Legal Rep Withdrew	3	1%
Moved to Comprehensive Service	221	40%
Health/other issues	2	0%

Other/Unknown	18	3%
Refused Services	128	23%
No longer eligible	27	5%
Moved from Area	115	21%
TOTAL	559	100%

6. The following table displays the reasons for the 158 people terminating support services during the prior annual reporting period and the 177 people terminating during this particular reporting period.

Termination by Reason – 10/1/03 through 10/31/04	Total	%
Deceased	16	10%
Legal Rep Withdrew	0	0%
Moved to Comprehensive Service	56	35%
Health/other issues	2	1%
Other/Unknown	6	4%
Refused Services	28	18%
No longer eligible	9	6%
Moved from Area	41	26%
TOTAL	158	100%

Termination by Reason – 11/1/04 through 10/31/05	Total	%
Deceased	16	9%
Legal Rep Withdrew	2	1%
Moved to Comprehensive Service	77	44%
Health/other issues	0	0%
Other/Unknown	5	3%
Refused Services	33	19%
No longer eligible	6	3%
Moved from Area	38	21%
TOTAL	177	100%

Compared to the prior annual reporting period, the data for this period indicates decreases in the reasons for people terminating services in the categories of Moved From Area (5%) and No Longer Eligible (3%). Percentage increases were in the area of Moved To Comprehensive Services (9%).

7. Attached to this report is supplemental enrollment and termination information. Attachment #1 is a line graph displaying the overall enrollments as well as the termination numbers by quarter. Attachment #2 is a summary of enrollment and termination information by County. Attachment #3 is a summary of enrollment and termination information by Support Service Brokerage.
8. In addition to the termination information, data indicates that 83 individuals transferred between Support Service Brokerages during this reporting period. This compares to 162 transfers during the prior year reporting period, a decrease of 49%.

C. Data on Service Costs and Purchases

From the Support Service Brokerages we have received information that reflects planned and actual expenditures for support services based on approved Individual Support Plans. Planned expenses for the year ending August 2005 averaged \$659 per month, with an actual average of \$507 per month. However, planned expenditures have risen to a monthly average in August 2005 to \$767, with average actual monthly expenditures for the same month reported to be \$613. This increase is attributable to the integration of State Plan Personal Care services into support services.

1. The table below displays the range of costs of annual support plans for people in Brokerages. This data is for 3,604 plans reported by Brokerages in August 2005.

Range of Annual Plan Amounts	Total # of Plans	% to Total
\$0	105	3%
\$1-\$3840	683	19%
\$3841-\$6000	239	7%
\$6001-\$9600	1,350	37%
\$9600-\$12,000	863	24%

\$12,001-\$19,999	233	6%
over \$20,000	131	4%
Total	3,604	100%

This data indicates a significant shift of expenses from all ranges below \$9,600 those above that rate. For the prior reporting period, 93% of the individual annual plan amounts were less than \$9,600 and 7% above. For this reporting period 66% of the individual annual plans for less than \$9,600 and 34% were above. This shift is attributed to the implementation of the new Supplement to Base tool and the policy decision to integrate the State Plan Personal Care services into support services.

2. The table below reflects expenditures reported by service category.

Support Service Category	% of Total Plan Expenses	% of Total Actual Expenses	Net
Community Living Supports	35.12%	38.73%	3.61%
Community Inclusion	40.21%	38.94%	-1.27%
Respite Care	8.05%	7.75%	-0.30%
Non-Medical Transportation	6.41%	6.28%	-0.13%
Supported Employment	8.64%	7.42%	-1.22%
Specialized Supports	0.98%	0.46%	-0.52%
Homemaker	0.05%	0.05%	0.00%
Spec. Medical Equip/Supplies	0.16%	0.25%	0.09%
Environmental Access/Adapt.	0.12%	0.02%	-0.10%
Chore Services	0.13%	0.01%	-0.12%
Speech/Hearing/Language	0.03%	0.02%	-0.01%
Family Training	0.05%	0.01%	-0.04%
Personal Emerg. Response Systems	0.02%	0.01%	-0.01%
Special Diets	0.03%	0.05%	0.02%
Total	100.00%	100.00%	0.00%

Compared to previous reporting periods the information above reflects a decrease in planned expenditures in the categories of Community Inclusion (5%) and Supported Employment (2%). There was an increase in planned expenditures for Community Living

Supports (9%). No other expenditure category has significant changes in percentages of planned use.

D. Data on Supplement to Base Benefit (Base Plus) Requests

At the end of the reporting period, 321 people enrolled in support services qualified for the Supplement to Base. This is 9% of the total enrolled. Of the 321 total, 91 (28%) were for the mid-range supplement and 230 (72%) were for the full base supplement.

E. Data on participation in Support Services Waiver

Current data indicates that approximately 87% of the individuals enrolled in Support Service Brokerages participate on the Medicaid support services waiver. Data also indicates that 93% of the support services expenses are eligible for federal matching funds against the Medicaid support waiver.

IV. CASE MANAGEMENT CASELOAD INFORMATION

In general the status remains the same as described in the previous reports. This is:

- A. Funding for case management provided through the Agreement was allocated to counties and the Support Service Brokerages with a goal of reducing the overall caseload to a 1:45 ratio.

- B. However, major factors continue to affect actual ratios at the local (case management) level. These are:
 - 1. County caseloads remain very high. Given the transfer of people to Support Service Brokerages as support services phase in, many individuals waiting for support services remain on targeted case management caseloads. This creates a situation where county caseloads will remain high.
 - 2. County costs often exceed the Department's allocation, which is based on an average county cost per case manager FTE that is summarized in a model budget. Counties that have costs above the statewide average feel resource pressures, and some counties are simply not able to purchase the number of FTE expected. Additionally, counties often experience increases in costs that exceed the percentage of increases provided by the state's cost-of-living increase.

3. The caseload after full implementation of the Staley agreement seems likely to exceed the original estimates and prevent the attainment of a 1:45 ratio. The estimated caseload growth was anticipated to reach over 15,500 after full implementation. As of August 2004, caseloads are at 14,796 and given the rate of caseload growth the 15,500 will be exceeded and compromise the goal of reaching a 1:45 ratio.

V. SERVICE DATA – Non-Crisis Comprehensive Services

A. In regard to the number of individuals requesting non-crisis comprehensive services (without regard to priority listing), current statewide waitlist data available through the Client Progress Monitoring System indicates that 3350 people on the statewide waitlist have requested residential services that would meet the Agreement's definition of comprehensive services. This is an 8% increase over the prior reporting period.

Through this reporting period, 33 people had non-crisis comprehensive services developed consistent with the Agreement.

1. The following table displays the number of non-crisis comprehensive services developed by County for the non-crisis comprehensive services.

County	# of Placements	%
Benton	3	9%
Clackamas	1	3%
Jackson	3	9%
Lane	2	6%
Malheur	2	6%
Marion	1	3%
Multnomah	9	27%
Polk	2	6%
Washington	10	30%
TOTAL	33	100%

2. The following table displays the distribution by percentage the type residential setting of developed non-crisis comprehensive services for the 33 individuals.

Residential Setting	# of Placements	% to Total
In-Home	12	36%
Group Home	2	6%
Supported Living	8	24%
Foster Care	11	33%
TOTAL	33	100%

3. The following table displays the distribution by percentage the monthly plan costs of the non-crisis residential services for the original 20 individuals.

Monthly Residential Plan Costs	#	% to Total
<\$1000	2	6%
\$1000 to \$1999	9	27%
\$2000 to \$2999	8	24%
\$3000 to \$3999	9	27%
\$4000 to \$4999	2	6%
\$5000 to \$5999	2	6%
\$6000 to \$6999	1	3%
TOTAL	33	100%

4. The following table displays the average monthly cost of residential service plans by type of residential setting for the 33 individuals.

Residential Setting	Ave. Plan Cost
In-Home	\$2,762
Group Home	\$4,953
Supported Living	\$2,888
Foster Care	\$2,056
AVERAGE	\$2,690

5. The following table displays the type additional services in plans for the 33 individuals.

Other Services Purchased	#	%
Transportation	4	12%
Employment/Comm. Inclusion	19	58%

6. The following table displays the average monthly costs of the other services purchased for the 33 individuals.

Costs Other Services Purchased	Ave. p/mo.
Transportation	\$293
Employment/Comm. Inclusion	\$894

7. The following table displays the distribution by percentage of the age of individuals receiving developed non-crisis comprehensive services for the 33 individuals.

Age Range	#	% to Total
18-21	2	6%
22-29	6	18%
30-39	2	6%
40-49	12	36%
50-59	9	27%
60-69	2	6%
70+	0	0%

8. The following table displays the distribution by percentage of the gender of individuals receiving developed non-crisis comprehensive services for the 33 individuals.

Gender	#	%
Female	21	64%
Male	12	36%
Total	33	100%

9. The following table displays the disability characteristics of individuals receiving developed non-crisis comprehensive services for the 33 individuals. This table represents the percent of people served who have been indicated as having the particular characteristic listed. Some individuals have more than one characteristic listed.

Disability Characteristic	%
Cerebral Palsy	15%
Seizure/Epilepsy	30%
Mental Retardation	88%
Motor Dysfunction	27%

Behavior Dysfunction	61%
Other Health Impairment	24%
Communication Dysfunction	45%
Visual Dysfunction	21%
Auditory Dysfunction	4%

VI. FAIR HEARINGS AND GRIEVANCES

A. Number of individuals who have utilized a grievance and outcome.

Brokerages reported two formal grievances addressed during the reporting period. The summary is as follows:

#	Issue	Disposition
1	Family caregiver complaint about required paperwork, alleging Personal Agent (PA) didn't communicate expectations.	Brokerage changed PA, and initiated training of family member regarding expectations.
2	Brokerage changed PA based on behavior of customer toward PA. Customer filed a grievance alleging change unwarranted.	Brokerage upheld decision to change PA

This reporting does indicate that grievances are expressed but responded at an informal level of resolution as provided in the administrative rules.

B. Number of people filing for a contested case hearing and outcome.

One request for a contested case hearing was processed. In addition, SPD processed one formal administrative review per the support service administrative rule. The summary is as follows:

#	Issue	Disposition
1	Dispute by a customer/family member indicating person should have access to full Supplement to Base funding, not mid-level funding as scored on the tool.	Administrative Law Judge found in favor of Department that the customer was entitled to only the mid-level Supplement to Base funding as scored on the tool.
2	Provider grieved being disqualified as a provider of support services and other Medicaid services, seeking to be reinstated.	SPD administration upheld the position that the provider be disqualified and would not be reinstated.