

Staley Lawsuit Settlement Agreement Progress Report – 1/5/04

I. INTRODUCTION

Below is the second progress reporting as required of the Department of Human Services (Department) by 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 October 1, 2002 to September 30, 2003.

The implementation update section of this report will be organized into three parts, each representing a different time period. This format was chosen because the reporting year experienced a disruption in normal implementation practices due to the State of Oregon experiencing an unanticipated fiscal crisis resulting from a sharp decline in state revenues. The first part will cover the four-month period of October 2002 through January 2003. The second part will cover the seven-month period of February 2003 through August 2003. The final part will cover the one-month period of September 2003.

II. IMPLEMENTATION UPDATE

Period 1: 10/1/02 through 1/31/03

This implementation period can be characterized by continued efforts to:

- A. Meet the service targets of the Agreement as specified in the initial implementation schedule by developing and expanding support services and non-crisis comprehensive services to adults with developmental disabilities;
- B. Develop and clarify implementation policies and procedures to help assure maximum service efficiency and effectiveness; and
- C. Enhance communication among key stakeholders to assure consistent levels of information, coordination of implementation efforts, clarification of roles, and input related to continued implementation.

During this period the Department continued the principal implementation strategies developed and reported during the prior year. Primarily these strategies included utilization of the:

- A. Ten (10) Support Service Brokerages generated from the Request For Proposals referenced in the initial report. These Brokerages implement support services as defined by the governing administrative rules.
- B. Community Developmental Disability Programs (CDDP) of the County Mental Health Program system. The CDDP's serve as the initial point of contact and referral for people entering support services and as the authorizing agent for Individual Support Plans. These responsibilities are in addition to other critical service functions such as determining eligibility, Medicaid administration, crisis service response, protective services, and quality assurance.

The CDDP's also served as the primary agent for the development and placement of non-crisis comprehensive services and as the party responsible for comprehensive services provided the named plaintiffs.

In terms of service projections for this period:

- A. For support services to adults, as of January 2003 Brokerages reported an enrollment of 1872 individuals. This number is 30 less than the original projection of 1902, and represents 98% of the target service number.
- B. For non-crisis comprehensive services, the CDDP's developed plans for an additional 14 individuals. This increased to 20 the total number of plans for individuals to receive non-crisis comprehensive services. This number is proportionately less than the target of 100 for the biennium ending 6/30/03.
- C. Comprehensive services to the named Plaintiffs continued as developed.

Period 2: 2/1/03 through 8/31/03

This implementation period can be characterized by efforts to:

- A. Respond to the severe budget problems experienced by the State;
- B. Plan for future Settlement related activities; and
- C. Continue work on the infrastructure, policies, and procedures needed to implement the Agreement.

Below are major events or informational points for this particular implementation period:

- A. Enrollments of additional individuals to receive support services were suspended as of 2/1/03. Also suspended was the development of new

non-crisis comprehensive services. These administrative actions were taken as a result of the statewide budget crisis that severely effected the Department.

- B. In response to the budget crisis, discussions between Plaintiff and State representatives were held to modify the Agreement. These discussions resulted in a tentative agreement to revise the Agreement by extending the overall timelines and slowing down the pace of service expansion.
- C. The eventual results of the above two efforts were that:
 - 1. Through Legislative actions and Department administrative activities funding was secured to (a) maintain for the remainder of the 01-03 biennium the priority infrastructure components related to support services and (b) continue services to those receiving support or non-crisis comprehensive services at the time the suspension of additional people was imposed.
 - 2. Funding was secured through the Legislature to meet the expectations of the modified Agreement, as proposed, throughout the 03-05 biennium.

In terms of service projections for this period:

- A. For support services to adults, as of August 2003 Brokerages reported an enrollment of 2536 individuals. Increases in Brokerage enrollments over the prior period were principally due to the transfer to Brokerages of a number of people that previously received their support services via County contracted services. Specifically these were people receiving employment and alternatives to employment services.
- B. Service continued for the 20 individuals receiving non-crisis comprehensive services and to the named Plaintiffs.

Additional efforts were made during this period in regard to meeting the expectations of the Agreement. A summary of these efforts is as follows:

- A. Work to revise or development a number of administrative rules was initiated. This included work on revising the rules that directly govern the implementation of support services to adults. Efforts also took place to revise or develop other administrative rules that relate to the implementation of the Agreement. These administrative rules govern the following program areas:
 - 1. Family Support Services for Children with Developmental Disabilities;
 - 2. Comprehensive In-Home Support for Adults with Developmental Disabilities;

3. Community Developmental Disability Programs;
 4. Employment and Alternatives to Employment Services for Individuals with Developmental Disabilities; and
 5. Criminal History Checks.
- B. Planning and implementing the “voc only” transition was furthered. The term “voc only” refers to individuals receiving employment or alternative employment services that meet the Agreement’s definition of support services. Historically, these specific support services were delivered via providers contracted through the local CDDP’s. The transition effort was to enroll these individuals into Brokerages and to begin their receipt of support services through this vehicle. Although the planning effort took several months, the actual transition began in July 03 and was targeted to end in October 03. Eventually this transition will involve 814 individuals. A stakeholder work group was developed to help plan and provide oversight of this particular activity.
- C. Due to financial and other strategic planning reasons, the Multnomah County Developmental Disabilities Program decided to no longer operate the Brokerage it was awarded as a result of the initial Request For Proposals. Operations of this Brokerage were ceased over the period of July and August 2003. At the time of closure, this Brokerage was serving 108 individuals. All of these individuals transferred their services to other Brokerages operating in the Multnomah County area.
- D. During this period Department staff continued to meet and communicate with key stakeholder groups for the purpose of planning and problem solving. These groups included but were not limited to:
1. Provider Associations;
 2. Community Mental Health Program Directors;
 3. CDDP Program Managers;
 4. Brokerage Directors; and
 5. Staley Implementation Group (formerly the Universal Access Planning Committee).

Other infrastructure related activities of note that were either initiated or concluded during this period were:

- A. A review of the support service rate guidelines;
- B. Finalization of the consumer satisfaction survey to be used for support services implemented via Brokerages;
- C. Development of a working draft of personal outcome statements and measures;

- D. Submission and receipt of a grant from the Centers for Medicare/Medicaid Services to address quality assurance for in-home services. This grant is intended to improve quality assurance practices related to various in-home services for adults under the Department's Seniors and People with Disabilities. Although this grant is not specific to people with developmental disabilities, it will have an eventual positive impact on support services.
- E. Initiated a review of the supplement to base (Base Plus) tool; and
- F. Implemented a broad based work group to review the policies, practices, and procedures in conducting abuse investigations and implementing protective services for in-home service settings.

Period 3: 9/1/03 through 9/30/03

This period can be characterized by activities to reinstate the continuation and expansion of services based on the expectations of the revised Agreement.

The key activities and events associated with this period are:

- A. The revised agreement was accepted by all negotiating parties;
- B. Enrollments into Brokerages for support services were reinstated according to new schedule dictated by the revised Agreement; and
- C. Amended contracts with Brokerages were executed to reflect the revised Agreement.

In terms of service projections for this period:

- A. For support services to adults, as of September 2003 Brokerages reported an enrollment of 2531 individuals. It should be noted that this data point was taken prior to the time new enrollments began based on the enrollment suspension being lifted.
- B. Service continued for the 20 individuals receiving non-crisis comprehensive services and to the named Plaintiffs.

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.

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

Age	%
18-20	6%
21-30	39%
31-40	26%
41-50	17%
51-60	9%
61-70	2%
71 plus	>1%
Total	100%

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

Gender	%
Female	48%
Male	52%
Total	100%

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

Race/Ethnicity	%
White (non-Hispanic)	80%
Black (non-Hispanic)	1%
American Indian	1%
Alaskan Native	0%
Asian, Pacific Islander	10%
Hispanic (Mexican)	2%
Hispanic (Puerto Rican)	3%
Other Hispanic	0%
Hispanic (Cuban)	1%
Southeast Asian	0%
Unknown	2%
Total	100%

4. The following table indicates the disability characteristics of individuals receiving support services through 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 characteristic listed.

Disability Characteristics	%
Cerebral Palsy	13%
Seizure/Epilepsy	18%
Mental Retardation	97%
Motor Dysfunction	27%
Behavior Dysfunction	37%
Other Health Impairment	22%
Communication Dysfunction	50%
Visual Dysfunction	19%
Auditory Dysfunction	8%

5. The following table indicates 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	2%
Unknown/Not Specified	6%
Total	100%

B. Enrollment, Termination, and Transfer Data

1. The table below indicates the pattern of enrollments by month into support service Brokerages as reported by the Brokerages since the inception of services.

Month/Year	Total # Enrolled for Month	Net Enrollments Over Prior Month
November-01	240	240
December-01	240	0
January-02	490	250
February-02	582	92
March-02	952	370
April-02	1009	57
May-02	1098	89
June-02	1189	91
July-02	1341	152
August-02	1464	123
September-02	1564	100
October-02	1676	112
November-02	1797	121
December-02	1841	44
January-03	1872	31
February-03	1842	-30
March-03	1832	-10
April-03	1821	-11
May-03	1808	-13
June-03	1803	-5
July-03	2349	546
August-03	2536	187
September-03	2531	-5

2. Two hundred twelve (212) people have enrolled into service and subsequently left support services. The table below indicates by percentage the reason listed for leaving support services.

Terminations by Reason	Percent
Refused Services	26%
Moved From Area	16%
Deceased	6%
Legal Rep Withdrew	0%
Moved To Comprehensive Services	38%
Health/Other Issues	1%
Other/Unknown	7%
No Longer Eligible	5%
TOTAL	100.00%

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

Terminations by 6-Month Time Period	Percent
November 01 thru April 02	12%
May 02 thru October 02	28%
November 02 thru April 03	47%
May 03 through September 03*	12%
TOTAL	100%
*5-month period	

4. In addition to the termination information, available data indicates that fifty-two (52) individuals transferred between Brokerages without terminating from services.

C. Data on Service Costs and Purchases

From the Support Brokerages we have received expenditure information that reflects expenditures for support services continue to average in a range of \$500 to \$550 per person per month. The actual reported range of monthly expenses was \$411 to \$608. This data does not include the costs for employment or alternatives to employment services of those individuals transferring into Brokerages. These individuals transferred in with an average service cost of over \$700 per month. This will have an effect of increasing the overall monthly average cost of support services for people enrolled in Brokerages. The table below reflects expenditures reported by service category.

Support Service Category	% of Total Plan Expenses
Community Living Supports	33%
Community Inclusion	32%
Respite Care	16%
Non-Medical Transportation	7%
Supported Employment	6%
Specialized Supports	2%

Homemaker	1%
Spec. Medical Equip/Supplies	1%
Environmental Access/Adapt.	1%
Chore Services	1%
Speech/Hearing/Language	0%
Family Training	0%
Personal Emerg. Response Systems	0%
Special Diets	0%
Total	100%

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

At the end of the reporting period, the data on Supplement to Base requests indicates that approximately 7% of enrollments into Brokerages have a Supplement to Base tool administered. Of the Supplement to Base tools administered approximately 75% score at 70 or above and receive the added benefits allowed by rule.

Of the Supplement to Base tools administered, the table below provides the distribution of the scoring.

Score Range	Percent
< 20 points	0%
20 - 29 points	2%
30 - 39 points	1%
40 - 49 points	4%
50 - 59 points	2%
60 - 69 points	6%
70 - 79 points	51%
80 - 89 points	32%
90 - 99 points	15%
100 + points	14%
TOTAL	100%

E. Data on participation in Support Services Waiver

Current data indicates that approximately 84% of the individuals enrolled in Brokerages participate on the Medicaid Support Services Waiver. This is consistent with the budgeted projections of 82%.

F. Case Management Caseload Information

There remains no consistent data about case manager caseload on a by County basis. In general the status remains the same as described in the previous report. This is:

1. Funding for case management provided through the Agreement was allocated to counties and the support services brokerages with a goal of reducing the overall caseload to a 1:45 ratio.
2. However, major factors continue to affect actual ratios at the local (case management) level. These are:
 - a. County caseloads remain very high. Given the transfer of people to 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.
 - b. 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.
 - c. 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. Currently caseloads are at 15,013 and given the rate of caseload growth the 15,500 will be exceeded and compromise the goal of reaching a 1:45 ratio.

IV. SERVICE AND DEMOGRAPHIC DATA – Non-Crisis Comprehensive Services

The number of people identified as potentially eligible based on caregiver age over 75 has not been changed since the prior report. 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 3141 people on the statewide

waitlist have requested residential services that would meet the Agreement's definition of comprehensive services.

For the 20 people who have had non-crisis comprehensive services developed as result of the Agreement, the tables below provide summary information on the County of service, type of residential service developed, additional services purchased through plans, costs of plans, and basic demographic information.

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

County	# of Placements	%
Washington	6	30%
Benton	2	10%
Lane	2	10%
Polk	1	5%
Marion	2	10%
Multnomah	5	25%
Clackamas	2	10%
TOTAL	20	100%

2. The following table indicates the distribution by percentage the type residential setting of developed non-crisis comprehensive services.

Residential Setting	% to Total
In-Home	40%
Group Home	10%
Foster Care	30%
Supported Living	20%
TOTAL	100%

3. The following table indicates the type additional services and percentage in plans purchased via the newly developed non-crisis comprehensive services developed. It should be noted that several people had some type of service (generally employment/alternatives to employment) already purchased prior to the new plan development and continued to receive these services. This information is not reflected in this table.

Other Services Purchased	%
Transportation	25%
Employment/Comm. Inclusion	35%
Rent Subsidy	5%
TOTAL	13

4. The following table indicates the distribution by percentage the monthly plan costs of the developed non-crisis comprehensive services.

Monthly Total Plan Costs	% to Total
<\$1000	5%
\$1000 to \$1999	25%
\$2000 to \$2999	20%
\$3000 to \$3999	20%
\$4000 to \$4999	15%
\$5000 to \$5999	10%
\$6000 to \$6999	0%
\$7000 to \$7999	5%
>\$8000	0%
TOTAL	100%

5. The following table indicates the distribution by percentage of the age of individuals receiving developed non-crisis comprehensive services.

Age Range	% to Total
18-21	0%
22-29	15%
30-39	5%
40-49	35%
50-59	45%
60-69	0%
70+	0%

6. The following table indicates the distribution by percentage of the gender of individuals receiving developed non-crisis comprehensive services.

Gender	%
Female	55%
Male	45%
Total	100%

7. The following table indicates the disability characteristics of individuals receiving developed non-crisis comprehensive services. 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	95%
Motor Dysfunction	25%
Behavior Dysfunction	55%
Other Health Impairment	20%
Communication Dysfunction	55%
Visual Dysfunction	25%
Auditory Dysfunction	5%

V. GRIEVANCES AND HEARINGS

- A. Number of individuals utilizing a formal grievance process and outcome.

In terms of support services, Brokerages report that two formal grievances were initiated this reporting period. One related to a dispute over the scoring of the Supplement to Base tool. A second related to a decision that a specific desired service was not an allowable expense for support service dollars under the current rules and expenditure guidelines. Both grievances were resolved at the Brokerage level and not pursued further.

In terms of the non-crisis comprehensive services, no additional grievances were reported. However, the one formal grievance initiated in the prior reporting period was resolved. This grievance was based on a concern by family members about the individual budget prepared for the person's services. Subsequently, an individual service budget was prepared to satisfaction of all involved parties and the grievance was terminated.

Although not involving formal grievances, Brokerages reported 10 situations where customers requested different Personal Agent staff be assigned to support them. In each occasion this request was accommodated.

- B. Number of people who have filed for a contested case hearing and outcome.

For this reporting period, not contested hearing cases were filed.