

**BRAAM SETTLEMENT:
PANEL DECISIONS ON CHILDREN'S ADMINISTRATION
REVISED COMPLIANCE PLAN #5**

FEBRUARY 12, 2009

Revised Compliance Plans related to
Monitoring Report #5 (October 1, 2008)



*Braam
Oversight
Panel*



Braam Oversight Panel

The Braam Oversight Panel was created in 2004 to oversee a Settlement regarding Washington State's foster care system. The Settlement was reached after a six-year period of litigation. The named Plaintiff, Jessica Braam, is an adult who lived in 34 foster homes by the time the suit was filed in 1998. The Settlement is intended to improve the conditions and treatment of children in the custody of the state's Division of Children and Family Services.

The Panel was created to monitor improvements in selected services and ensure quality standards are met during the seven year duration of the settlement. This independent Panel was mutually selected by the parties (the Plaintiffs who filed the lawsuit and the state of Washington). The Panel, working in collaboration with the Department of Social and Health Services (DSHS) and with substantial input from the Plaintiffs and other stakeholders, issued an Implementation Plan for the six areas specified in the Settlement in February 2006. In July 2008, a Revised Braam Implementation Plan was published to reflect clarifications and modifications based on developments in the Braam process and discussions with DSHS, the plaintiffs and stakeholders.

This document provides Panel decisions on compliance plans in response to the Panel's Monitoring Report #5 (October 2008). Monitoring Report #5 was the first report based on the requirements of the Revised Braam Implementation Plan (July 2008), and addressed outcome data for fiscal year and calendar year 2007, as well as progress with respect to action steps through June 30, 2008. This report required compliance plans for 2 action steps found to be incomplete and 14 outcomes for which 2007 benchmarks were not reached, and requested additional information with respect to 2 action steps that were classified as "pending." Compliance plans in most of these areas were approved by the Panel on December 23, 2008. However, in that document, four compliance plans were not approved. These plans were subsequently revised by the Department, and are addressed in this document.

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OVERVIEW

On October 1, 2008 the Panel issued its fifth Monitoring Report, which provided outcomes data for fiscal year and calendar year 2007, as well as a report on action steps through June 30, 2008. This was the first monitoring report based on the requirements of the Revised Braam Implementation Plan (July 3, 2008).

In Monitoring Report #5, the Panel determined that four additional action steps had been completed, and benchmarks related to six outcomes had been reached. In that report, the Panel also reached findings that led to the need for new compliance plans and additional documentation in a number of areas:

- *Action steps:* The Panel found that two of the action steps that became due during the performance period had not been completed and new compliance plans were required. In addition, the Panel requested additional information on two action steps that were classified as “pending.”
- *Outcomes and benchmarks:* The Panel concluded that the Department’s performance fell short of benchmarks for the year 2007 and new compliance plans were required for 14 outcomes.

The Settlement requires the Department to submit proposed compliance plans within 30 days for action steps determined by the Panel to have been incomplete and outcomes for which the Department has failed to reach annual benchmarks. In response to the Panel’s findings in Monitoring Report #5, the Department submitted draft compliance plans for the incomplete action steps and outcomes for which benchmarks had not been reached in November 2008. The plaintiffs then provided comments on these plans. The Department responded to the plaintiffs’ comments and submitted revised compliance plans to the Panel in December 2008.

Panel Decision on Compliance Plan #5 (December 23, 2008)¹

On December 23, 2008, the Panel issued decisions on the Department’s proposed compliance plans:

- *Action steps-* For the four action steps addressed in that report, the Panel approved one compliance plan, requested additional information for the March 2009 Monitoring Report for two action steps, and noted that no compliance plan had been submitted for the remaining action step.
- *Outcomes-* The Panel approved 10 out of the 14 compliance plans related to Braam outcomes that had been submitted in December 2008. *Compliance plans for four outcomes were not approved.*

Pursuant to the Settlement Agreement, the Department revised and resubmitted plans for the four outcomes for which the December 2008 compliance plans had not been approved. These plans were submitted in January 2009, and comments were provided by plaintiffs’ counsel in February 2009. This document addresses these four outcomes.

¹ The Panel’s decision document, as well as all other Panel reports, can be found online at <http://www.braampanel.org/reports.asp>

Format of this Document

This document includes only the four outcomes for which the Panel had found in the Monitoring Report #5 (October 1, 2008) that 2008 performance had failed to reach the benchmark, and for which the Department's earlier proposed compliance plan had been found by the Panel to be unacceptable.

Summary information related to compliance plans on the four outcomes for which revised compliance plans were required is provided beginning on page 7. Detailed decisions and comments are found beginning on page 8.

Communications from the Department (including copies of revised compliance plans) and the plaintiffs related to the compliance plans are available as an appendix to this document.

Next Steps

The Panel's next Monitoring Report will be released in March 2009. This report will address compliance with FY2008 benchmarks for Braam outcomes, and Braam action steps through December 31, 2008.

DECISIONS ON REVISED COMPLIANCE PLANS

This document addresses only the four outcomes for which the Panel had found in the Monitoring Report #5 (October 1, 2008) that 2008 performance had failed to reach the benchmark, and for which the Department's December 2008 proposed compliance plan had been found by the Panel to be unacceptable. The Department revised and resubmitted compliance plans for these outcomes in January 2009:

- *Mental health, goal 3, outcome 2*—Annual mental health screening
- *Unsafe & inappropriate placements, goal 1, outcome 3*- Sexually aggressive youth (SAY)
- *Unsafe & inappropriate placements, goal 1, outcome 4*- Physically aggressive/ assaultive youth (PAY)
- *Unsafe & inappropriate placements, goal 1, outcome 5*- Medically fragile youth

The Panel has approved the revised compliance plans for all of these outcomes.

Additional detail and comments are found on the following pages. The first column of the tables on the following pages shows the outcome as stated in the revised Implementation Plan, the second column shows findings from Monitoring Report #5 (including 2007 benchmarks and performance), and the third column shows the Panel's decision and comments when it found the compliance plan proposed in December 2008 to be unacceptable. The fourth column provides the Panel's decision on the revised compliance plan (January 2009), and any additional comments.

Further detail on the status of other outcomes can be found in the Panel's most recent Monitoring Report (#5, October 1, 2008) as well as in the Panel's forthcoming Monitoring Report #6 (to be published in March 2009).²

² All Panel reports, can be found online at <http://www.braampanel.org/reports.asp>.

MENTAL HEALTH- DECISIONS ON REVISED COMPLIANCE PLANS

Outcome	Panel Findings in Monitoring Report #5 (October 1, 2008)	Panel Decision on 12/08 Compliance Plan	Panel Decision on Revised Compliance Plan (1/09)
<p><u>Goal 3, Outcome 2</u></p> <p>Children in out-of-home care will be screened for mental health and substance abuse needs every 12 months.</p>	<p><u>Benchmark:</u> FY07=75% Statewide benchmark must be met, and no region's performance may be more than 10 percentage points lower than the statewide benchmark.</p> <p><u>Performance:</u> FY07= 56.5% Regional performance ranged from 53.7-59.7% FY06= 43.9%</p> <p><u>Monitoring Report #5 Status:</u> Failed to reach FY07 benchmark: compliance plan required</p>	<p>Compliance plan not approved</p> <p>Panel approves of changes in measurement related to allowing screenings every 13 months (rather than every 12 months) and counting as compliant children receiving ongoing mental health services through Children's Administration or the Regional Support Networks.</p> <p>However, the remaining strategy designed to increase the number of EPSDT screenings does not appear sufficient to close a significant gap between performance and the benchmark. Panel requests that a revised plan include more detail on how EPSDT screening rates will be improved.</p> <p>Panel requests data for this outcome using both the original measurement approach and the revised approach with the changes approved above.</p>	<p>Compliance plan approved</p> <p>Panel expects that the Department will provide data using both the original measurement approach and the revised approach with the changes in the approved compliance plan, as requested previously.</p> <p>Panel also requests confirmation when the EPSDT reminder system has been implemented in FamLink.</p>

UNSAFE & INAPPROPRIATE PLACEMENTS- DECISIONS ON REVISED COMPLIANCE PLANS

Outcome	Panel Findings in Monitoring Report #5 (October 1, 2008)	Panel Decision on 12/08 Compliance Plan	Panel Decision on Revised Compliance Plan (1/09)
<p><u>Goal 1, Outcome 3</u> Children identified as sexually aggressive (SAY) pursuant to the statutory definition will be placed with caregivers who have received specialized training and have a plan developed to address safety and supervision issues.</p>	<p><u>Benchmark:</u> CY07= 95% Statewide benchmark must be met, and no region's performance may be more than 10 percentage points lower than the statewide benchmark.</p> <p><u>Performance:</u> CY07= 55.0% Regional performance ranged from 40.0%-- 72.7% <i>Comparable FY06 data not available</i></p> <p><u>Monitoring Report #5 Status:</u> Failed to reach CY07 benchmark: compliance plan required</p>	<p>Compliance plan not approved</p> <ul style="list-style-type: none"> • Many of the strategies in the plan (e.g. updating of policy, identification of youth with SAY/ PAY behaviors, automation of supervision plans) hinge on the implementation of FamLink, which has now been delayed. Revised plan should provide an update on when FamLink will be launched. If the delay in FamLink is significant, the plan should provide clarification on how these children are identified and supervised without the availability of FamLink. • The plan is not specific as to how and when social workers will be expected to identify children as SAY/ PAY and document this once FamLink is launched. How will this expectation be operationalized, both for children entering placement as well as those already in out-of-home care? • The plan notes concerns regarding the use of the foster parent survey to gather data for this outcome, and states that FamLink could ultimately be the source of compliance data in this area. Revised plan should be specific about timeframes for moving to FamLink as a data source for this outcome. 	<p><u>Compliance plan approved</u></p> <p>Panel requests an update by August 1, 2009 (prior to the September 2009 Monitoring Report) regarding initial progress using FamLink to manage and track SAY/ PAY issues: information entered in FamLink to date, reports generated, and preliminary analysis of this information.</p>

Outcome	Panel Findings in Monitoring Report #5 (October 1, 2008)	Panel Decision on 12/08 Compliance Plan	Panel Decision on Revised Compliance Plan (1/09)
<p><u>Goal 1, Outcome 4</u> Children identified as physically assaultive or physically aggressive (PAY) pursuant to the statutory definition will be placed with caregivers who have received specialized training and have a plan developed to address safety and supervision issues.</p>	<p><u>Benchmark:</u> CY07= 95% Statewide benchmark must be met, and no region's performance may be more than 10 percentage points lower than the statewide benchmark.</p> <p><u>Performance:</u> CY07= 44.7% Regional performance ranged from 30.0%-- 60.0% <i>Comparable FY06 data not available</i></p> <p><u>Monitoring Report #5 Status:</u> Failed to reach CY07 benchmark: compliance plan required</p>	<p>Compliance plan not approved</p> <p><i>See comments above under goal 1, outcome 3 (SAY).</i></p>	<p><u>Compliance plan approved</u></p> <p><i>See comments above under goal 1, outcome 3 (SAY).</i></p>

Outcome	Panel Findings in Monitoring Report #5 (October 1, 2008)	Panel Decision on 12/08 Compliance Plan	Panel Decision on Revised Compliance Plan (1/09)
<p><u>Goal 1, Outcome 5</u></p> <p>Medically fragile children will be connected to ongoing and appropriate medical care and placed with caregivers who have specialized skills or receive consultation and ongoing training regarding their caretaking responsibilities for the medical condition.</p>	<p><u>Benchmark:</u> CY07= 85% Statewide benchmark must be met, and no region's performance may be more than 10 percentage points lower than the statewide benchmark.</p> <p><u>Performance:</u> CY07= 75.1% Regional performance ranged from 70.4%-78.8% CY06= 74.9%</p> <p><u>Monitoring Report #5 Status:</u> Failed to reach CY07 benchmark: compliance plan required</p>	<p>Compliance plan not approved</p> <ul style="list-style-type: none"> • Many of the strategies in the plan (e.g. identification of medically fragile youth, and using that information to target training opportunities and communications to foster parents and to prioritize certain health programs) hinge on the implementation of FamLink, which has now been delayed. Revised plan should provide an update on when FamLink will be launched. If the delay in FamLink is significant, the plan should provide clarification on how these children are identified and supervised without the availability of FamLink. • The plan is not specific as to how and when social workers will be expected to identify children as medically fragile and document this once a definition has been established and FamLink is launched. How will this expectation be operationalized, both for children entering placement as well as those already in out-of-home care? • The plan notes concerns regarding the use of the foster parent survey to gather data for this outcome. In the revised plan, the Panel requests clarification as to whether FamLink could become the data source for this outcome and, if so, when this would occur. 	<p><u>Compliance plan approved</u></p>