



In the past year, the community inclusion mandate of the U.S. Supreme Court case, *Olmstead v. L.C.* has been pushed front and center in Ohio due to changing Medicaid regulations. This fact sheet is meant to help you better understand the mandate for community inclusion.

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The United States has a History of Placing People with Disabilities in Institutional Settings

In the past, people with disabilities were placed, often at birth, into institutional settings where they lived lives separated from the general community; had limited choices in how they lived day-to-day; were forced to live with a lack of privacy in unsanitary conditions; and were subject to abuse. Historically, these institutional settings were called asylums.

After conditions in asylums were exposed, in 1973, Congress passed the *Rehabilitation Act*, and in 1990, it passed the *Americans with Disabilities Act (ADA)*, which made discrimination against people with disabilities a violation of federal law and required the government to administer services to people with disabilities in “the most integrated setting appropriate.” 29 U.S.C. 701, et seq.; 42 U.S.C. 12101, et seq. 28 C.F.R. 35.130(b)(7).

The Olmstead Decision

In 1999, two women, Lois Curtis and Elaine Wilson, brought a lawsuit against the state of Georgia because they were denied requests to transfer from a psychiatric hospital into the community. *Olmstead v. L.C.*, 527 U.S. 581, 593 (1999). In the lawsuit, *Olmstead v. L.C.*, the U.S. Supreme Court held that “undue institutionalization qualifies as discrimination ‘by reason of disability’” under the ADA. *Id.* at 594.

The U.S. Supreme Court also stated that:

1. unnecessary institutionalization perpetuates myths that people with disabilities are unable to participate in community life; and
2. confinement severely diminishes the everyday life activities of people with disabilities including family relations; social contacts; work options; economic independence; educational advancement; and cultural enrichment. *Id.* at 607.

“The ache for home lives in all of us. The safe place where we can go as we are and not be questioned.”

- Maya Angelou

Federal Enforcement of Olmstead

Since *Olmstead*, the federal government has allowed states to provide community based services under the Medicaid program to assist states with transitioning people with disabilities into the community.

Presidents George W. Bush and Barack Obama both issued orders encouraging *Olmstead* enforcement. Since 2009, the U.S. Department of Justice has investigated or sued over twenty-five states for having systems that over-rely on institutional settings in order to provide care. Institutional settings include intermediate care facilities; nursing facilities; and sheltered workshops. Many states have been required to change their systems to favor providing services in community, inclusive settings over institutional, segregated ones.

Olmstead Problems in Ohio

Over the years, Ohio has increased waivers and transitions from institutional settings to the community through programs such as the Home Choice Program, but much work still needs to be done.

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OUR MISSION: To assist people with disabilities to live, work, and socialize within a fully accessible community.

OUR VISION: We believe in and support equitable and inclusive communities for people living with disabilities.

In the twenty years since Olmstead, the percentage of Medicaid dollars spent on home and community based services has only increased from 11.4% to 32.4%. This is behind the national average of 38.8% in 2012 and behind the 60-65% number from highest performing states.

The **Ohio Department of Developmental Disabilities** provided waivers to approximately 32,000 people with developmental disabilities but as of June, 2013, there were approximately 41,260 people on waiting lists for waivers whose only options are family support, no services, or institutional services.

Statewide, there are 2,713 individuals on the waiting list for a PASSPORT waiver and 1,123 individuals on a waiting list for an Assisted Living waiver. Additionally, assessments and the implementation of waiver services are inconsistent and create frequent delays that get in the way of people transitioning into the community with services.

Currently, 6000 people in Ohio are institutionalized in private **Intermediate Care Facilities** and 1000 are in **Developmental Centers**. As of 2011, no other state has as many large ICFs as Ohio (*fifteen or more beds*). 17,000 people in Ohio receive day services in sheltered workshops, which is more than any other state.

The low-pay and high training requirements in Ohio encourage a turn-over rate of close to 31% and the unavailability of home health care aides, one of the staples of HCBS.

Likewise, there is a lack of affordable, accessible housing in Ohio that makes it difficult for people with disabilities to find housing within their income range.

In 2014, the National Association of Retired Peoples ranked Ohio 44th out of 50 states in their scorecard of long term services and supports.

Olmstead Statistics in Lucas County

As of April 2014, the Lucas County Board of Developmental Disabilities reported 4,279 people on waiting lists for DD waivers. In a year, the number of people on waiting lists had only decreased around 60 people. 386 people with developmental disabilities live in ICF/ IIDs in Lucas County.

From August 2013 through July 2014 there were 4,950 requests for nursing facility placement in the **Area Office on Aging of Northwest Ohio's** ten county, northwest Ohio area. 848 people enrolled in Area Office on Aging waivers during that time.

In Lucas County, 1,622 people are enrolled in sheltered workshops, 147 are in enclaves, and only 143 have reported community-supported employment.

In the 2014 needs assessment for the **Area Office on Aging of Northwest Ohio**, 74.7% of those surveyed reported in-home services as an unmet need. The number one requested service was chore services.

The **Lucas County Mental Health and Recovery Services Board** has identified housing and supported employment as the two significant gaps in services in Lucas County for those with mental health disorders.

What We Can Do

We can take further steps as a state and locally to move towards Olmstead implementation. These steps include:

1. Directing at least 60% of Medicaid funding to Home and Community based services;
2. Increasing the stock of inclusive, accessible affordable housing connected;
3. Adopting a system that provides home and community based services directly through Medicaid rather than through waivers;
4. Adopting one common assessment tool for home and community based services based on individual needs, including non-medical needs;
5. Create state policies that increase the number and reliability of in-home providers;
6. Appoint administrators of disability agencies that are trained in Olmstead issues;
7. Create specific benchmarks and models for community living for state and local disability agencies.

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