Olmstead Overview & History

Iowa Department of Human Services

What is Olmstead?

Olmstead v. L.C. & E.W. is the name of a 1999 U.S. Supreme Court decision that interpreted part of the Americans with Disabilities Act (the ADA).

Historically, persons with disabilities often lived and received care, treatment or other services in segregated, usually institutional settings. We now recognize the old policies of social isolation were unfair and unnecessary. The Americans with Disabilities Act of 1990 and the Olmstead Supreme Court decision are about moving public policy and attitudes to the other end of the spectrum so that all persons with disabilities have the opportunity to be fully integrated into the communities of their choice and are served in more restrictive settings only based on their individual disability-related needs and their own personal preferences.

The Americans with Disabilities Act

The ADA is a federal law enacted by Congress in 1990 "to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities."

The ADA has five sections (or titles) that include non-discrimination provisions in state & local government, employment, public accommodations, telecommunications and other areas. The Olmstead Decision is specifically concerned with Title II of the ADA, which prohibits discrimination against individuals with disabilities by public entities - meaning state and local governments.

Title II of the ADA says that: *[N]o qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.* (42 U.S.C. § 12132)

The federal regulations (rules) for Title II require public entities to "administer services, programs, and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities." The most integrated setting is defined one that "enables individuals with disabilities to interact with nondisabled persons to the fullest extent possible."

Initially, the Olmstead Decision was recognized as a directive to help people move out of institutions and into community living situations. The decision, although, goes beyond just where people live - it also applies to their daily activities and interactions, their access to employment, transportation, and other aspects of personal choice and community integration. This is known as the "integration mandate."

The Olmstead Supreme Court Decision

During the 1990s many of the provisions of the ADA were tested and clarified through litigation. One of those legal challenges started in 1995 with two Georgia women named Lois Curtis and Elaine Wilson.

Both women had intellectual disabilities and mental health conditions. Both had been living in a state run psychiatric hospital for an extended time. Both had benefited from their treatment and the professionals who had treated them agreed they were ready to leave. Both expressed a desire to return to homes in the community. At the time, however, the State of Georgia did not offer any community living options that could meet their needs. As a result, they had no choice but to remain in the institutional setting indefinitely. Lois and Elaine believed that having to stay in a segregated setting when it was not necessary meant they were being discriminated against on the basis of their disabilities.

The name “Olmstead” comes from Tommy Olmstead, who was at the time the Commissioner of the Georgia Department of Human Resources and responsible for the system that administered pubic mental health and disability services.

With the help of legal advocates from Legal Aid of Atlanta, they brought suit to enforce their rights under the ADA integration mandate to receive publicly funded services in an integrated community setting. Their case eventually made its way to the United States Supreme Court, where Lois and Elaine won.

The resulting Supreme Court decision, issued on June 22, 1999, became a landmark in the civil rights of Americans with disabilities, standing for the principle of non-discrimination against individuals with mental illness and disabilities.

In *Olmstead v. L.C. & E.W.*, 527 U.S. 581, the Supreme Court held that Title II prohibits the unjustified segregation of individuals with disabilities. In its ruling, the Court said: *“[C]onfinement in an institution severely diminishes the everyday life activities of individuals, including family relations, social contacts, work options, economic independence, educational advancement, and cultural enrichment.”* That quote embodies the spirit and central focus of the ruling:

- that states need to make community living options available to persons with disabilities
- and that states fund and operate their disability services systems in a way that does not force people to live or spend their time in institutional or segregated settings

The Court suggested that a State could establish compliance with title II of the ADA if it demonstrates that it has:

- a comprehensive, effectively working plan for placing qualified persons with disabilities in less restrictive settings, and
- a waiting list that moves at a reasonable pace not controlled by the State's endeavors to keep its institutions fully populated

An *Olmstead* plan is a public entity's plan for implementing its obligation to provide individuals with disabilities opportunities to live, work, and be served in integrated settings. While not required by the Olmstead decision, an effectively working plan is one way of demonstrating a good faith effort and compliance.

Federal Guidance

Following the Olmstead decision, states began to engage in Olmstead planning and community integration activities in response to the ruling and to guidance provided by the federal government. That guidance to states included:

- Developing a comprehensive, effectively working plan (or plans) to strengthen community service systems and serve people with disabilities in the most integrated setting appropriate to their needs, and
- Actively involving people with disabilities, and their family members or representatives, in design, development and implementation of such plans.

In 2001, two years after the Olmstead decision, President George W. Bush issued Executive Order 13217: Community-Based Alternatives for Individuals with Disabilities, requiring federal agencies to identify and address barriers to community living within their rules and policies, and announced the New Freedom Initiative to promote full access to community life.

In 2009, President Obama issued a proclamation launching the "Year of Community Living," and directed the U.S. Department of Justice Civil Rights Division to launch an aggressive effort to enforce the Olmstead decision. Since that time, the Department of Justice has pursued dozens of matters in at least 25 states.

DOJ *Olmstead* enforcement efforts have been driven by three goals:

(1) people with disabilities should have opportunities to live life like people without disabilities;
(2) people with disabilities should have opportunities for true integration, independence, recovery, choice and self-determination in all aspects of life including where they live, spend their days, work, or participate in their community; and
(3) people with disabilities should receive quality services that meet their individual needs.

In April 2012, a new organization called the Administration on Community Living (ACL) was created within the U.S. Department of Health and Human Services to combine the efforts and achievements of the Administration on Aging, the Office on Disability and the Administration on Developmental Disabilities into a single agency. The goal was to increase access to community supports and full participation, while focusing attention and resources on the unique needs of older Americans and people with disabilities across the lifespan.

Iowa's Response

Olmstead planning activities were initiated in Iowa in May 2000, when Governor Tom Vilsack designated the Iowa Department of Human Services as the lead state agency for Olmstead implementation.

During 2000, a series of 20 community meetings were held at locations throughout the state to share information about the Olmstead Decision and gather public input. In January 2001, a statewide Olmstead Steering Committee was convened and participated in the development of a plan. The resulting plan, the Iowa Plan for Community Development, was presented to the Governor in July 2001.

In September 2001, Iowa was awarded a federal Real Choice System Change Grant (2001-2005) & the Olmstead Steering Committee became the Olmstead Real Choices Task Force, which later was to become the Olmstead Consumer Task Force.

In February 2003, Governor Tom Vilsack issued Executive Order 27, which required twenty state agencies to identify and address barriers to community participation for Iowans with disabilities and long term illnesses.

The initial Iowa Plan for Community Development was revised and updated in 2005, and a third planning effort began in 2009 resulting in the development of the Olmstead Plan for Mental Health and Disability Services (MHDS), released in 2010. This plan was intended to establish the guiding principles for Iowa's evolving MHDS system, help coordinate efforts to improve community integration, and track progress.

The 2010 plan established the vision of “a life in the community for everyone” and nine guiding principles that are still recognizable in the 2016-2020 Framework:

- public awareness and inclusion
- access to services and supports
- individualized and person-centered
- collaboration and partnership in building community capacity
- workforce and organizational effectiveness
- empowerment
- active participation
- accountability and results for providers
- responsibility and accountability for government

In 2015, work began on a revised plan, which is now the Olmstead Plan for Mental Health and Disability Services 2016-2020. The overall vision and core principles we value have remained constant, although many significant changes at both the federal and state level were underway at the same time the plan was being developed. This latest planning effort focused is on recognizing both the progress that has been made and the ever-changing landscape of the environment.

At the State Level

- The legislature passed MHDS Regional Redesign, which began a process of workgroup meetings and gathering input from stakeholders.
- There are now 14 mental health and disability services regions made up of groups of counties (with the exception of Polk County, which is its own region) working together to do what 99 counties were trying to do individually before.
- The MHDS regions have achieved a greater level of statewide consistency in delivering an initial array of core services (Iowa Code §331.397) and are continuing to develop and expand additional services, including crisis response, sub-acute care, jail diversion, and prescreening for civil commitments.
- The Iowa Health and Wellness Plan expanded Medicaid coverage to more Iowans, increasing statewide enrollment by about 28%.
- The state took over the entire non-federal cost-share for the Medicaid program that had previously been shared with counties.
- The cost of the Medicaid program increased significantly – from fiscal year 2013 to 2016, Medicaid spending in Iowa jumped more than $1 billion to $4.7 billion.

- In early 2016, the majority of Medicaid services, including long term services and supports were moved into a new managed care structure, administered by managed care organizations.
- In July 2015, two of Iowa's four state mental health institutes (MHIs) were closed and beds were reconfigured at the remaining MHIs.

At the Federal Level

- The new Administration for Community Living was established to help increase access to community supports nationwide.
- The Department of Justice under the Obama Administration stepped up its efforts to enforce the ADA and hold states and localities accountable.
- The Centers for Medicare & Medicaid Services (CMS) adopted new federal rules for home and community based settings – known as the HCBS settings rules – to increase community integration.
- New opportunities to participate in various federal grants, projects, and technical assistance collaboratives have been made available to states.

The principles and direction of the 2010 plan are still relevant, and are reflected in the new plan, however new opportunities have emerged that offer better or different ways of pursuing the objectives.

New Planning Process

The first step in developing the 2016 plan was to define goals and outcome measurements and identify a starting point. To do that, the planning team:

- reviewed federal guidance and looked at plans developed by other states
- concentrated on quality of life indicators
- asked Iowans with mental illness or disabilities what is important to them and how they are impacted by the policies of the services system
- designed the plan to be person-focused
- recognized that policies and actions of state agencies, while important, should not be the end result - the outcome should not be what DHS did, but whether it made a positive difference for people

- built MHDS redesign elements and the direction that service delivery has been moving into the plan
- worked to align the plan with regions, providers, employment initiatives, new federal standards
- worked to align the with Iowa's HCBS Transition Plan developed by IME and submitted to CMS, the Community Services Mental Health Block Grant Plan and other state-level planning efforts
- met with and received input from a committee of Olmstead Consumer Task Force members

Building on what has come before – In 2012, an Outcomes and Performance Measures Committee was formed and tasked with developing recommendations for a set of standard outcome and performance measures to be used to assess the effectiveness and efficiency of the regional mental health and disability services (MHDS) system. In doing so, the committee used the nine guiding principles of the 2010 Olmstead plan to create six outcome and performance measure domains. The legislature adopted these domains into the Iowa Code (Chp. 225C.6A(3)) in 2013 as part of MHDS redesign legislation:

- Access to Services
- Life in the Community
- Person Centeredness
- Health and Wellness
- Quality of Life and Safety
- Family and Natural Supports

These domains were chosen as the starting point for the 2016 plan. Because of the far-reaching importance and complexity of outcomes in the area of Life in the Community, it was divided into four major areas: integration, employment, housing, and transportation, making nine outcome goals which were established as the basis for the plan.

2016-2020 Plan Outcome Domains:

- Access to Services
- Life in the Community Integration
- Life in the Community Employment
- Life in the Community Housing
- Life in the Community Transportation
- Person Centeredness
- Health and Wellness
- Quality of Life and Safety
- Family and Natural Supports

The Plan Framework Document

The framework document is designed to guide you through nine **Outcome Goals**, which are "big picture" statements that describe the positive life experiences that should be available to Iowans with disabilities and mental illnesses. Each of nine outcome goal areas has four components:

1. **Objectives** are specific "pieces" that come together to form the big picture. Considered together, these objectives in each of nine areas of community living define "where we want to be." Each of the nine goals also identifies a "priority area of focus," which is recognized as needing attention.

2. **Programs, Activities & Policies** are specific actions being implemented to achieve measureable progress toward the outcome goals and objectives. These include programs and policies managed by DHS or other state agencies, and activities of other organizations that support the vision of life in the community for everyone. These describe "what we are doing to make progress."

3. **Indicators of Progress** are the types of information that will be gathered and reviewed at least annually to measure progress toward the outcome goals and objectives. These are the questions we are going to be asking. They include data that can be collected through systems (things we can count) and through gathering the opinions of individuals with disabilities and mental illnesses and their families through personal experience surveys. These describe "how we can tell we are getting there."

4. **Data and Links to Data Sources** report on the indicators of progress and describe "where we are now." In this way, as new data is collected and made available, you will be able to review it and see how we have progressed toward the outcome goals.

Plan Adopted

The Olmstead Plan Framework was reviewed by the DHS Council on Human Services at their October 11, 2017 and adopted by the Council at their November 8, 2017 meeting.

What's Next?

Olmstead planning is an ongoing process. Other state agencies will be invited to add their own initiatives. As input continues to be gathered from consumers of mental health and disability services, family members, providers, advocates, other stakeholders and the general public, additions can be made to the initial plan. Periodically, the plan will be updated and progress reports will be made available.