



# Implementation Of The Olmstead Decision in Iowa

---

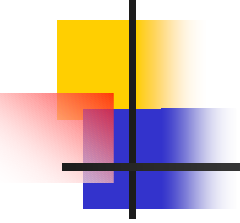
Betsy Hradek ARNP  
Clinical Coordinator IMPACT  
University Of Iowa Hospital And Clinics  
March 21,2003

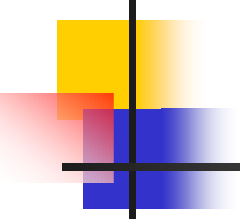


# Olmstead v. L.C.

---

- On June 22, 1999, the United States Supreme Court held in *Olmstead v. L.C. & E.W.* that the unnecessary segregation of individuals with disabilities in institutions may constitute discrimination based on disability.

- 
- 
- The court ruled that the Americans with Disabilities Act may require states to provide community-based services rather than institutional placements for individuals with disabilities.

- 
- 
- **This historic pronouncement makes attainable a goal long-sought by disability-rights advocates.**



# Background on *Olmstead v. L.C.*

---

- *L.C. and E.W. v. Olmstead* brought in 1995 by the Atlanta Legal Aid Society against the Commissioner of the Georgia Department of Human Resources (Tommy Olmstead)
- the plaintiffs were two women with mental retardation as well as psychiatric conditions who were patients in a state psychiatric hospital
- the hospital agreed that they were appropriate for discharge into community programs, but “slots” were not available

# Background on Olmstead v. L.C.

- LC and Friends



# Background on Olmstead v. L.C.

- EW





# Background on Olmstead v. L.C.

---

- the first U.S. Supreme Court case involving the "integration mandate" of the Americans With Disabilities Act was heard on April 21, 1999
- while the case worked its way through the courts, both women were placed in the community, where they have since done well
- The case continued because the situation could arise again



# Background on Olmstead v. L.C.

---

- In a 6-3 opinion authored by Justice Ruth Bader Ginsburg, the court affirmed a ruling by the United States Court of Appeals for the Eleventh Circuit that unjustified isolation of individuals with disabilities is properly regarded as discrimination based on disability.



# Title II of the ADA

---

- A public entity shall administer services, programs, and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities. 28 C.F.R. § 35.130(d).



# Background on Olmstead v. L.C.

---

- The court held that unjustified segregation in institutions is discrimination under the ADA
  - it perpetuates unwarranted assumptions that people with disabilities are incapable or unworthy of participating in community life,



# Background on Olmstead v. L.C.

---

- confinement in an institution severely curtails everyday life activities, such as family relations, social contacts, work, educational advancement and cultural enrichment



# State's Requirements

---

- Under the Court's decision, States are required to provide community-based services for persons with disabilities who would otherwise be entitled to institutional services when:



# State's Requirements

---

- the State's treatment professionals reasonably determine that such placement is appropriate;
- the affected persons do not oppose such treatment;
- the placement can be reasonably accommodated, taking into account the resources available to the State and the needs of others who are receiving State-supported disability services.



# State's Requirements

---

- The Court cautioned that nothing in the ADA condones termination of institutional settings for persons unable to handle or benefit from community settings.
- The State's responsibility, once it provides community-based treatment to qualified persons with disabilities, is not unlimited.



# State's Requirements

---

- A state can 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.



# Key Elements of State Plans \*

---

- PARTICIPATION OF KEY STAKEHOLDERS IN THE DEVELOPMENT OF THE PLAN
- NEEDS ASSESSMENT PROCESS
- DEVELOPMENT OF NEW COMMUNITY SERVICES AND SUPPORT INFRASTRUCTURE
- TRANSITION SERVICES TO PREPARE INDIVIDUALS FOR A CHANGE IN PLACEMENT

\*National Association of Protection and Advocacy Systems



# Key Elements of State Plans \*

---

- DATA COLLECTION WHICH IS INDIVIDUALIZED AND TIED TO INDIVIDUAL PROGRAM PLAN
- OUTCOMES MEASUREMENT AND TARGET DATES
- MONITORING/QUALITY ASSURANCE
- RESOURCE DEVELOPMENT
- Update every 2 years

\*National Association of Protection and Advocacy Systems



# Who Olmstead Affects

---

- Those protected by the ADA include people with mental retardation, mental illnesses, physical disabilities, hearing, sight, and mobility impairments, and other medical conditions that substantially limit at least one major activity of life. (Major life activities are: seeing, hearing, speaking, breathing, walking, learning, working, performing manual tasks, and caring for yourself.)



# Iowa's Response to Olmstead

---

- May 2000, Governor Tom Vilsack asked Iowa Department of Human Services (DHS) to serve as the lead agency in developing Iowa's comprehensive response to the Supreme Court's *Olmstead* decision.
- DHS submitted a report outlining the current disabilities services system in Iowa to the Governor on August 31, 2000.



# Iowa's Response to Olmstead

---

- From October 20, 2000 through January 19, 2001, a total of 20 Olmstead Teamwork Meetings were held across the State of Iowa to gather input from consumers of disability-related services, family members, and other persons interested in the disability-related service system in our state.



# Iowa's Response to Olmstead

---

- In January of 2001, a statewide Steering Committee was formed to begin the development of a draft plan for Iowa. The Steering Committee was made up of:
  - individuals with disabilities
  - parents of children with disabilities, and other family members



# Iowa's Response to Olmstead

---

- The statewide Steering Committee took the initial steps toward developing a "strategic plan" for the State of Iowa to improve the availability of comprehensive community services.



# Iowa's Response to Olmstead

---

The Steering Committee's "working draft" of the Iowa Plan for Community Development was based on the Report on the Olmstead Teamwork Meetings for Iowa and was made available for a public comment period through May 20, 2001, after which the *Iowa Plan For Community Development* was finalized.

# Input sought in 5 Areas

Felt to be Key to Successful Community Life

---

- HEALTH CARE AND MEDICAL SERVICES: What is needed for individuals who qualify for the level of care provided in institutions to have their health care needs met and have access to necessary medical services while living in community settings?

# Input sought in 5 Areas

Felt to be Key to Successful Community Life

---

- HOUSING : What is needed for individuals with disabilities to find and to maintain safe, affordable housing in community settings?

# Input sought in 5 Areas

Felt to be Key to Successful Community Life

---

- TRANSPORTATION: What is needed to meet the transportation needs of individuals with disabilities so that they can live successfully in community settings?

# Input sought in 5 Areas

Felt to be Key to Successful Community Life

---

- EMPLOYMENT: What is needed to assist individuals with disabilities in finding, maintaining, and advancing in jobs in the community?

# Input sought in 5 Areas

Felt to be Key to Successful Community Life

---

- CHOICE AND COMMUNITY SUPPORT:  
What is needed to give individuals with disabilities meaningful opportunities for making informed choices about the services and supports they receive and about how they live their lives?



# Iowa's Response to Olmstead

## Plan Principles

---

- To develop and implement a comprehensive, effectively working plan for providing services to eligible individuals with disabilities in more integrated community-based settings.
- To provide an opportunity for interested people, including individuals with disabilities and their representatives, to be integral participants in plan development and follow-up.
- To take steps to prevent or correct current and future unjustified institutionalization of individuals with disabilities.
- To ensure that services are sufficient to meet the minimum needs of people with disabilities to live in their communities.
- To afford individuals with disabilities and their families the opportunity to make informed choices regarding how their needs can best be met in community or institutional settings.
- To take steps to ensure that quality assurance, quality improvement and sound management support implementation of the plan.
- To ensure that a continuum of community integrated services are made available statewide.

# Iowa's Response to Olmstead

## Plan Steps Toward System Change

---

- Identify all stakeholders and their roles in the process.
- Identify people currently living in institutional settings (gather aggregate data).
- Provide information and education.
- Individually assess needs and preferences of individuals living in institutional settings.
- Develop a comprehensive list of individuals who are seeking more integrated community-based services.
- Develop and maintain a comprehensive and accurate waiting list for community services.
- Identify and train independent living specialists.
- Develop and provide coordinated transition services.



# Iowa's Response to Olmstead

## Plan Recommendations

---

- The plan recommends that Iowa
  - pursue "legislative, regulatory, and policy changes" to allow support funds to follow the person into the community equivalent to those available to support that person's need in an institution
  - expand Medicaid eligibility levels including the Medicaid buy-in program
  - increase state Medicaid reimbursement levels to health care providers



# Iowa's Response to Olmstead

## Current Status Of The Plan

---

- Successes \*
- The greatest success to date has been the development of the Cross-Disability Coalition in *Olmstead*. The *Olmstead* Real Choices Consumer Task Force has members from a wide variety of disability groups, has a minimum of 50 percent consumers, and has been intimately involved in every major decision affecting the project, including the development of a work plan, that was to be completed by the end of 2002.

\*National Conference of State Legislators

# Iowa's Response to Olmstead

## Current Status Of The Plan

### ■ Successes \*

- Another major step has been a request to the governor to issue an executive order similar to the one issued by the president under the New Freedom Initiative. If issued, it would direct all appropriate state agencies to collaborate with the *Olmstead* Real Choices Consumer Task Force toward the identification of barriers to community living, policy changes that might be appropriate or needed, and training and information issues for staff and the general public. The request for an executive order was delivered to the governor on Oct. 15, 2002. Order signed Feb. 4, 2003.

\*National Conference of State Legislators



# Iowa's Response to Olmstead

## Current Status Of The Plan

---

### ■ Challenges\*

- The division of MHDD in Iowa was eliminated in November 2001, due to restructuring within the Department of Human Services. The functions of that division were transferred to a newly reconfigured, larger Division of Behavioral, Developmental, and Protective Services for Families, Adults and Children. Many staff positions were eliminated and combined.

\*National Conference of State Legislators



# Iowa's Response to Olmstead

## Current Status Of The Plan

---

- Challenges <sup>\*</sup>
  - Iowa suffered from a severe budget crisis, making it difficult to accomplish the work in the time frames established. The state's *Olmstead* efforts have been placed in one individual's job description, making it difficult to move ahead when other job responsibilities arise. The state is moving forward, but at a much slower pace than initially hoped for.

\*National Conference of State Legislators



# Iowa's Response to Olmstead

## Current Status Of The Plan

---

### ■ Next Steps \*

- The state of Iowa received a \$1.025 million Real Choice Systems Change Grant. The money will be used to support the state's response to *Olmstead*. The state will identify systems for identification of all people with disabilities who currently are living in institutional settings and those at risk of entering institutions and develop an evaluation process to monitor systems change efforts.

\*National Conference of State Legislators



# Iowa's Response to Olmstead

---

- More information, including a copy of the Iowa plan, is available at [www.dhs.state.ia.us/mhdd/MHDDOlmstead.htm](http://www.dhs.state.ia.us/mhdd/MHDDOlmstead.htm)



# What ACT is....Origins

---

- Wisconsin 1970's
- Mendota State Hospital
- Len Stein MD, Mary Ann Test SW
- "Hospital without Walls"
- Outcomes published in 1980



# Key Features of ACT

---

- Multidisciplinary Staff
- Team approach
- Integrated care
- Locus of care in the community
- Favorable ratio (8:1)
- Assertive outreach
- 24/7 availability for crisis intervention
- Time unlimited services



# ACT Outcomes

---

- Fewer hospitalizations
- Improved housing stability
- Better educational/vocational achievement
- High satisfaction (patients and families)
- Findings have been replicated (>25 randomized controlled trials)