

# DisabilityRights

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## ARKANSAS

Tom Masseau, Executive Director

**Health Reform Legislative Task Force Committee**  
**Disability Rights Arkansas, Inc.**  
Tom Masseau, Executive Director  
September 16, 2015

Mr. Hendren, Mr. Collins, and members of the Health Reform Legislative Task Force Committee:

Thank you for allowing Disability Rights Arkansas this opportunity to provide comments in support of the Department of Human Services (DHS) Community First Choice Plan (or something similar) that was debated last year.

Disability Rights Arkansas (DRA). DRA is a private nonprofit organization designated by the Governor to implement the federally authorized Protection and Advocacy systems. Our mission is to assist people with disabilities through education, empowerment and protection of their legal rights. We serve all Arkansans with disabilities of all ages. We provide services through information and referral, direct advocacy and legal representation. DRA also provides training and outreach throughout the state.

Every year, the DRA Board of Directors solicits input into the development of the agency priorities. This solicitation is accomplished through public surveys and analyzing the reviewing prior year's request for assistance. In Fiscal Year 2015, the Priorities established are as follows:

- Accessibility
- Community Integration and Institutions
- Education
- Employment
- Juvenile Justice
- Prisons/Jail

The priority and objective that is most relevant today falls under the Community Integration and Institutions priority. This priority focuses on ensuring that individuals with disabilities will be free from abuse, neglect, and the unnecessary use of restraint and seclusion. It focuses also on

the idea that individuals should receive quality support services, rights protection and be empowered to make choices in their lives.

In 1999, the Supreme Court ruled in *Olmstead v L.C.* that public entities are required to provide community-based services to individuals with disabilities when, a) such services are appropriate; (b) the affected persons do not oppose community-based treatment and, (c) community-based services can be reasonably accommodated, taking into account the resources available to the entity and the needs of other who are receiving disability services. Essentially state and local governments need to provide more integrated community alternatives to individuals in or at risk of segregation in institutions or other segregated settings. (US Department of Justice, Civil Rights Division, "Statement of the Department of Justice on Enforcement of the Integration Mandate of Title II of the Americans with Disabilities Act and *Olmstead v L.C.*") Further, the *Olmstead* decision required each state to develop a plan that would place individuals with disabilities in less restrictive settings.

Following the *Olmstead* decision, former Governor Mike Huckabee formed the Governor's Integrated Services Taskforce. This taskforce was charged with assisting the state Department of Human Services in writing an *Olmstead* Plan. In 2003, the Taskforce completed its charge and developed The *Olmstead* Plan in Arkansas. The plan contained over one hundred recommendations for the state Department of Human Services and members of the Legislature to consider. The report highlighted the intent of the state's movement towards providing services in less restrictive settings. Enactment of the Community First Choice Option (or something similar) will help to fulfill some of the recommendations identified over eleven (11) years ago.

Approximately 3,000 individuals have been on a waiting list, some for over five years all waiting to receive services in their community. Individuals want access to waiver services in their community. Waiver services reduce the need for emergency care, increase quality of life for people with disabilities and their families and allow families to remain together in their communities.

The State and Legislature needs to invest in providing community based services, as it is evident these are the services individuals are demanding. Currently, Arkansas is spending 50% on institutional care and 50% on home and community case care despite more people living and demanding services in their community. Further, Arkansas is ranked 45<sup>th</sup> among the 50 states on serving those with disabilities. Arkansas has an over reliance on institutional care as evidenced by the figures above.

If we need another example, of why community based services is a good thing, then consider that the state is spending twice as much to provide services in the Human Development Centers (\$117,459 versus what is being spent on to provide waiver services in the community (\$59,126).

The expansion of community based services will save \$365 million of state general revenue the next 12 years. Additionally, the State will benefit from a 6% increase to the federal match rate for the program.

We are at a critical point in Arkansas. The State and Legislature needs to address the waiting list, comply with Olmstead, and ensure the almost 3,000 individuals on the community services waiting list receive services in the least restrictive setting.

I understand that it will take approximately 18 months to two years to completely eliminate the 3,000 individuals on the waiting list, but it shows there is light at the end of the tunnel.

Again, thank you for allowing Disability Rights Arkansas the opportunity to provide comment on this very important issue facing Arkansans with disabilities.