

# Olmstead Decision



Alabama Medicaid Agency  
Long Term Care Division  
February 2015

# Origin: Olmstead Decision

The Olmstead Decision stems from a 1999 Supreme Court decision requiring states to administer their services, programs and activities, “in the most integrated setting appropriate to the needs of qualified individuals with disabilities.”



# Definition: “Integrated Setting”

**A setting that enables individuals with qualifying disabilities to interact with non-disabled persons to the fullest extent possible.**



# Who Does the Olmstead Decision Apply to?

The decision's "integration" requirement applies to all individuals with qualifying disabilities protected from discrimination under Title II of the Americans with Disabilities Act (ADA).



The scope of the Olmstead decision is not limited to Medicaid beneficiaries, or to services financed by the Medicaid program.

# What is a “Qualifying” Disability?



**Title II of the ADA defines an individual with a qualifying disability as a person with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity.**

# What is Title II of the ADA?

**Title II of the Act addresses Public Services, whether provided directly by, or on behalf of, a public entity.**

**A public entity is defined as:**

- Any State or local government;**
- Any department, agency, special purpose district, or other instrumentality of a State or local government; and**
- The National Railroad Passenger Corporation**



# What is Required of States?

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



- The State's treatment professionals reasonably determine that such placement is appropriate;**
- The affected persons do not oppose such treatment; and**
- 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.**

# What is the Reasonable Modification Requirement?

Under the ADA, states are required to “make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program or activity.”



# What is a Fundamental Alteration?

**Fundamental alteration takes into account three factors:**



- The cost of providing services to the individual in the most integrated setting appropriate;**
- The resources available to the State; and**
- How the provision of services affects the ability of the State to meet the needs of others with disabilities.**

# How does a State Comply with Title II and the Olmstead Decision?

The Court suggests that a state could establish compliance by demonstrating that it has:



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

# What did the Olmstead Decision Not Do?

**The Olmstead Decision DID NOT:**



- Create new benefits;
- Create a new eligibility group;
- Change federal or state eligibility thresholds (either financial or medical);
- Eliminate the use of available community resources; or
- Provide for additional funding.

# Does the ADA or Olmstead Decision Recommend Termination of Institutional Care?



**Nothing in either the ADA or Olmstead decision condones termination of institutional settings for persons unable to cope with, or benefit from, community settings.**

# What Steps has the State of Alabama Taken?



The Olmstead Core Workgroup was established to assist in the planning and development of a realistic Olmstead Plan.

The Workgroup includes a substantial number of consumer advocates and provider organizations.

There are four Olmstead subcommittees:

- Needs Assessments;
- Best Practices;
- Consumer Task Force; and
- Eliminate the use of available community resources; or
- Resource Development and Coordination.

# What is Next?

- Solicit Technical Assistance from the National Conference
- Compile a Draft Olmstead Plan
- Schedule Public Forums
- Revise Plan
- Olmstead Plan Completion
- Meet with Legislators, Policymakers, and Other Stakeholders



# Practical Outcomes

The landmark decision rendered in Olmstead has resulted in many positive outcomes for Alabamians, including:



- The Ticket-to-Work/Medicaid Infrastructure Grant;
- Real Choice System Change Grant; and

# Practical Outcomes (continued)

Various 1915 (c) Waivers designed to provide services to eligible consumers in the least restrictive environment available:

- Alabama Community Transition (ACT) Waiver
- Elderly and Disabled (E&D) Waiver;
- HIV/AIDS Waiver;
- Intellectual Disabilities Waiver;
- Living at Home Waiver;
- State of Alabama Independent Living (SAIL) Waiver; and
- Technology Assisted (TA) Waiver for Adults



# Additional Information

**If you have any further questions regarding the Alabama Medicaid Agency Long Term Care (LTC) Programs please contact:**



**Ozenia Patterson, Director, LTC Division,  
334-242-5577; [Ozenia.Patterson@Medicaid.Alabama.gov](mailto:Ozenia.Patterson@Medicaid.Alabama.gov)**