



NYSAAAA Member Update #2002-13

~ March 27, 2002 ~

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SUMMARY OF NYS OLMSTEAD IMPLEMENTATION MEETING March 21, 2002

A partial listing of attendees includes the following:

Dave Wollner	Office of the Governor	Kathy Kuhmerker	DOH
Dick Warrender	Office of Advocate for the Disabled	Sandy Pettinado	DOH
Sim Goldman	ADAPT	Susan Peerless	DOH
Chris Hilderbrant	ADAPT	Rich Alexander	DOH
Bruce Darling	ADAPT	Cindy Schaffhausen	DOH
Bill Ferris	AARP	Betty Rice	DOH
Brad Williams	NYSILC	Pat Mapes	DOH
Beth Mahar	NYSAAAA	Linda Kelly	DOH
T.K. Small	Advocate	Tom Fanning	DOH
Greg Olsen	NYSCA	Richard Nussbaum	DOH
Mike Burgess	Statewide Sr Action Council	Anna Colello	DOH
Neal Lane	NYSOFA	Greg Jones	State Adv. For Disabled
Ed Stafford	NYSHFA	Carol Rodat	Homecare Assn
Bob Murphy	NYSHFA	Neil Murray	

Background:

The New York State Department of Health has been meeting with various advocacy groups for 18 months to address Olmstead compliance in New York State. The original meetings were held at the behest of ADAPT (Americans with Disabilities for Accessible Public Transportation), but have gradually expanded to include a variety of organizations representing both the disabled and service providers.

Department of Health

The meeting was opened by Kathy Kuhmerker, NYS Deputy Commissioner, Department of Health, Office of Medicaid Management. She gave an overview of activities that Department of Health has undertaken internally to advance Olmstead compliance.

Analysis of Current Practice

Betty Rice from DOH is spearheading an examination, or what she refers to as “a giant flow chart” of status quo in New York, with respect to the balance of institutionalization and availability of community-based services. Her group’s challenge is to:

- Identify issues
- Map out current practice
- Delineate problems
- Target barriers to options
- Provide recommendations for alternatives

DOH will prepare this assessment tool, then release it to the community to critique, probably in a series of regional meetings around the state. Some discussion centered around whether the meetings should include clients and providers together or separately, and consensus was reached that separate presentations would very likely yield the most favorable outcome.

Second Round of Grants

DOH is expecting to see published shortly in the *Federal Register* an announcement of a second round of Olmstead implementation grants. They are currently assuming that the grant parameters will be the same as in 2001, but will not know for sure until the guidelines are released.

The grants for which the state (through its Medicaid Management unit) applied were for the following 3 HCFA proposals:

- Nursing Facility Transition
- Real Choice Systems Change
- Community Integrated Personal Assistance and Supports (PASS)

The state did not score very well on two of these proposals; most likely they will be scrapped and re-written. On the third proposal, however, the PASS proposal, which is essentially a consumer directed personal assistance program, the state scored an 82, with grants being awarded to those

with scores of 84 and above. This final proposal will most likely be merely tweaked before resubmission.

DOH will be providing the attending organizations copies of the executive summaries of the grant submissions (working on the assumption that the topics will remain the same), and will be convening workgroups in late April to begin to draft new grant proposals. Workgroups will be comprised of consumers, providers and local administrative districts.

Some concern was voiced that CMS would not be accepting new proposals, just reevaluating those second tier (i.e. non award winning) proposals from 2001. If this emerges as the protocol, New York state would strongly advocate for a new submissions procedure.

NOTE: On March 25, 2002, DHHS announced an additional \$55 million for "Systems Change Grants for Community Living." See full text of the press release on the DHHS website, located at: <http://www.hhs.gov/news/press/2002pres/20020325a.html>

\$50K Starter Grant

This grant was received by NYS in order to "promote the most integrated setting." Currently it has not been expended. The state is looking to leverage it and received dispensation in the wake of September 11, to extend the expenditure period. DOH has defined the following as their path to promoting the most integrated setting:

- A commitment to move 125 people from nursing homes
- Divert individuals from inappropriate nursing home placement and promote community placement
- Use \$40,000 from starter grant to develop protocols for process and draft RFP, and use \$10,000 for travel, to enable the disabled to attend planning meetings
- Increase information, via website, trainings, etc. regarding non-institutional alternatives

These proposals incorporate the concepts of delaying entry into nursing facilities through the dissemination of timely and accessible information and the promotion of personal responsibility.

Current Information Initiative

Anna Colella from DOH is heading a workgroup that will provide information to hospital discharge planners. The first challenge of this group will be to bring together current and appropriate background on available services. A special emphasis will be made to include an acknowledgement of the caregiver's role in the planning process. The focus of the group will proceed along this timeline:

- Education
- Data collection
- Continuous re-evaluation of placements

Housing

DOH has been meeting with the Division of Housing and Community Renewal to discuss additional allocation of Section 8 waivers for adaptive housing. Laurie Frizzola handles Housing issues for the Governor's office.

Looking to establish a "housing trust fund" for NYS.

NYSOFA

Neal Lane outlined the Hartford Grant for the Capital District, and the progress that has been made in this endeavor.

Next Steps

DOH outlined their priorities for the next few months as being:

- 1) Grants
- 2) Review of current LTC system

Representative from ADAPT requested that DOH review their previously submitted proposals for Medicaid waivers for the physically disabled. Advocates want broader eligibility. DOH representatives replied that the proposals are in review but they have established no time frame for the completion of the review process. Many factors must come into play to establish a new waiver program, such as:

- Definition of outcome (what do you want to achieve?)
- Cost/effective (fiscal impact)- waiver programs must establish gross cost neutrality

Ultimately, advocates want money to follow the individual

The meeting adjourned with an agreement to meet at least quarterly to discuss overall progress, and update the group at large on workgroup activity.

DELIVERING ON THE PROMISE - REPORT OF FEDERAL AGENCIES' ACTIONS TO ELIMINATE BARRIERS AND PROMOTE COMMUNITY INTEGRATION

Overview:

In February 2001, President Bush released the New Freedom Initiative, a comprehensive plan to tear down the barriers facing people with disabilities and preventing them from participating fully in community life. As part of that initiative, the President issued Executive Order 13217, "Community-Based Alternatives for Individuals with Disabilities," June 18, 2001. The order calls upon the federal government to assist states and localities to swiftly implement the decision of the United States Supreme Court in *Olmstead v. L.C.* In that case, the court found that, under certain circumstances, the Americans with Disabilities Act (ADA) requires states to provide community-based services for persons with disabilities and holds that unjustified institutionalization of a person with a disability is discrimination under the ADA.

Preliminary Report

The Preliminary Report sets forth the federal agencies' vision for a successful community service system consistent with Executive Order 13217. In 13 major areas, the report discusses the barriers to community integration articulated by the agencies and highlights key solutions. Detailed descriptions of all agency activities are provided in the individual reports of each agency, which were presented to President Bush on March 25th.

The Report also describes federal agency efforts to ensure public input in conducting self-evaluations of agency programs, policies, statutes and regulations. It also describes the root of Executive Order 13217, providing background on the Supreme Court decision in *Olmstead v. L.C.* and on the ADA.

The Preliminary Report was submitted to the President in December 2001 and is currently available online at <http://www.hhs.gov/newfreedom>

Highlights of Federal Agency Actions to Promote Community Integration

As a result of the self-evaluation process briefly described above, federal agencies devised hundreds of solutions to facilitate the community integration of individuals with disabilities. These solutions fall into the following categories:

- Health Care Structure and Financing
- Housing
- Personal Assistance, Direct care Service and Community Workers
- Caregiver and Family Support
- Transportation
- Employment
- Education
- Access to Technology
- Accountability and Legal Compliance
- Public Awareness, Outreach and Partnerships
- Income Supports
- Gathering, Assessment and Use of Data
- Cross-Agency Collaboration and Coordination

Full press release is located on the DHHS web site at <http://www.hhs.gov/news/press/2002pres/20020325.html>

More information on the New Freedom Initiative and Executive Order 13217 is available at <http://www.hhs.gov/newfreedom>

DHHS ANNOUNCES STEPS TO PROMOTE COMMUNITY LIVING FOR PEOPLE WITH DISABILITIES

(full text of Press Release located on DHHS web site at:
<http://www.hhs.gov/news/press/2002pres/20020325a.html>)

Excerpts from DHHS March 25, 2002 Press Release:

HHS Secretary Thompson Presents President With Final Agency Report

On March 25th, HHS Secretary Tommy G. Thompson presented President Bush with reports from nine federal agencies outlining more than 400 specific solutions that the agencies can implement to support community living for the nearly 54 million Americans living with disabilities. The reports stem from the first comprehensive federal review of barriers preventing people with disabilities from living in their communities instead of in institutions. *(See above)* President Bush called for the federal review last June as part of his New Freedom Initiative, and asked Secretary Thompson to lead the government-wide effort.

"These reports represent the first time that so many federal agencies have worked together to create a comprehensive blueprint toward achieving community living for people with disabilities," said Secretary Thompson. "It's been a remarkable effort that truly demonstrates this administration's commitment to providing people with disabilities with the tools they need to participate fully in community life."

Second Round of Grants Announced

Secretary Thompson also announced that the department will provide another \$55 million to the "Systems Change Grants for Community Living" program to enable states to improve their community long-term care systems for people with disabilities and long-term illnesses. The new "Systems Change Grants for Community Living" funding announced on March 25th by Secretary Thompson builds on the goals in the New Freedom Initiative for increasing community integration for people with disabilities. HHS awarded nearly \$70 million for this program in fiscal year 2001. The \$55 million in new funding will enable the department to offer additional grants to help states improve their community-based services. The program includes the following:

- 1) Real Choice Systems grants:** \$36 million to help states design and implement enduring improvements in community long-term support systems to enable people with disabilities or long-term illnesses to live and participate in community life.
- 2) Community-integrated Personal Assistance Services and Supports grants:** \$6 million to support states' efforts to improve personal assistance services that are consumer-directed.
- 3) Nursing Facility Transition grants:** \$9 million to help states transition eligible individuals from nursing facilities to the community.
- 4) National Technical Assistance Exchange for Community Living grants:** \$4 million to provide technical assistance, training, and information to states, consumers, families, and other agencies and organizations.

More information on the Systems Change Grants for Community Living program is available at <http://www.hcfa.gov/medicaid/systemschange/default.htm>

"All of the partners in this review process - the federal and state representatives, people with disabilities, providers and advocates – came to it with a list of problems that must be overcome," said Secretary Thompson. "Today, we come away with actual solutions to make a real difference in the lives of people of all ages with disabilities."

The reports to the President, "Delivering on the Promise: Compilation of Federal Agency Reports of Actions to Eliminate Barriers and Promote Community Integration" will be available soon online at <http://www.hhs.gov/newfreedom>

More information on the New Freedom Initiative is available from the White House at <http://www.whitehouse.gov/news/freedominitiative/freedominitiative.html>

NYSAAAA LTC/Olmstead Workgroup

The workgroup held its most recent meeting via conference call on March 8th. A brief summary of the Albany "Our Homes Not Nursing Homes" event on February 6th was provided. The workgroup will continue to refine a NYSAAAA policy statement on Olmstead, which will be presented to the Board of Directors for review and comment in the near future.

The group also agreed to use the educational opportunity of the upcoming "Aging Concerns Unite Us" Conference to explore the issues surrounding systemic change in long term care.

Additional workgroup members (AAA Directors/Commissioner or their staff) are welcome at any time. Current workgroup participants:

Lorre Anderson	Monroe County OFA	Nelsa Selover	Cayuga County OFA
James Baker	Warren/Hamilton OFA	Susan Standish Wallace	Wyoming County OFA
Kathleen Bunnell	Broome County OFA	Irene Stein	Tompkins County OFA
Sandra Cross	Saratoga County OFA	Sharon Stevans	Cortland County AAA
Samuel David	Chemung County OFA	Linda Tetor	Steuben County OFA
Beth Dishaw	Cayuga County LTC	Nick Trotto	Monroe County OFA
Greg Laskowski	Broome County OFA	Patricia Watson	Erie County OFA
James Lyttle	Sullivan County OFA	Frances Wright	Otsego County OFA
Claire Murphy	Washington Cty OFA	Laura Cameron	NYSAAAA
Marilyn Pinsky	Onondaga County OFA	Neal Lane	NYSOFA
Corinne Ryan	Cayuga County OFA	Judith Rabig	Oneida County OFA

Full-Day Session on Rebalancing the LTC System on June 5th at "Aging Concerns Unite Us" Conference

The second day of the "Aging Concerns Unite Us" Conference (at the Holiday Inn in Syracuse/Liverpool) will open with a 2-hour general session featuring keynote presentations from James Varpness and Donna McDowell who will highlight the strong role of aging in LTC reform efforts in the states of Minnesota and Wisconsin. A reactor panel will provide a thought-

provoking dialogue among state agency policymakers and the nonprofit leaders of several associations. Confirmed panelists:

James Varpness, Director, Minnesota Board on Aging
Donna McDowell, Director, Wisconsin Bureau of Aging & Long Term Care Resources
Kathryn Kuhmerker, Deputy Commissioner, Office of Medicaid Management, NYS Dept of Health
Carol Rodat, President, Homecare Association of New York State
Laura Leeds, Vice President Continuing Care, Healthcare Association of NYS
Neal Lane, Executive Deputy Director, NYS Office for the Aging

Additional sessions will be offered for the remainder of the day to provide a forum for further discussion of LTC issues and the implications of the Olmstead Decision.

<p style="text-align: center;">THE STATES' RESPONSE TO THE OLMSTEAD DECISION: NCSL REPORT</p>
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NYSAAAA Member Update #2002-10, dated March 20th, provided a brief summary of an NCSL (National Conference of State Legislatures) report titled "The States' Response to the Olmstead Decision: A Work in Progress." For the full report, visit the NCSL web site, enter the "public user" section, and the Olmstead report will appear:
<http://www.ncsl.org/programs/health/forum/olmsreport.htm>