

Olmstead Meeting Minutes

February 4, 2021

Olmstead Mission Statement

The mission of the Council is to develop and monitor the implementation of a plan to promote equal opportunities for people with disabilities to live, learn, work and participate in the most integrated setting in the community of their choice through West Virginia's compliance with Title II of the Americans with Disabilities Act.

Olmstead Vision Statement

The vision of the Council is for all West Virginians with disabilities to live, learn, work and participate in the most integrated setting in the community of their choice.

WELCOME AND INTRODUCTION

Steve Wiseman, Chair, called the meeting to order at 10:05 a.m.

Attendance:

Carissa Davis, Steve Wiseman, Ardella Cottrill, Lynsay Frye, Rich Ward, Cara Price, Ann McDaniel, Sally Blackburn, Angie Breeden, Marcus Canaday, Suzanne Messenger, Nancy Fry, Paul Smith, Amber Hinkle, Teresa McDonough, Jason Parmer, Amber Moore, Roy Herzbach, Renee Chapman, Lesley Cottrell, Esther Wright, Liz Ford, Joyce Floyd, Willis McCollum, and Elliott Birckhead

Guests: Mark Fordyce - WVUCED, Ed Hopple – Legal Aid of WV, Jolynn Marra DHHR OIG and OHFLAC, and Susan File - OHFLAC

READING OF MISSION STATEMENT

Ardella read the mission Statement.

APPROVAL OF MINUTES

Ann made a motion to approve August 2020 minutes and Nancy seconded the motion and the motion carried.

PUBLIC FORUM

Ed Hopple a West Virginia Legal Aid Regional Ombudsman addressed the Council regarding concerns about people with intellectual and developmental disabilities being re-institutionalized. He is seeing former state institution and group home residents now in nursing homes. Ed stated that some of these individuals have a legitimate reason to be in a nursing home, but others could be served in community settings and their needs are not being met in a nursing home. Ann asked if he knew if any of the individuals had been institutionalized after a hospital stay. Ed does not know for sure but that most likely has happened. Teresa asked if any of the people had West Virginia Department of Health and Human Resources (DHHR) guardians, family guardians, or guardianship. Ed stated that they have a variety of guardians. Steve stated that when facilities closed the commitment was there for the individuals who were deinstitutionalized to remain in the community, and it appears some people have been

abandoned and end up in nursing homes. Suzanne stated that the Olmstead Council could monitor the policies and practices of the State. Ann would like the Council to advocate for changes to policies and practices to realize the intent of Title II of the Americans with Disabilities Act. Roy stated many people in nursing homes may not do well in the community, but they may do well in assisted living, and the state supplement for assisted living has not been meaningfully increased. Many providers who could provide for lower income people have been lost. Funds need to be generated for people to provide services to lower income people in assisted living. Amber Moore mentioned the problem that few assisted living centers take the subsidized rate. Ann stated we need to find ways to rebalance our system!

Long-Term Care Facility and Behavioral Health Services Licensing Changes

Jolynn Marra, Acting Inspector General and Director of Office of Health Facilities Licensure and Certification, addressed the Council regarding the proposed changes to the Behavioral Health Rule which will be taken up during the upcoming legislative session. The Behavioral Rule was overhauled a few years ago and the statute was changed last year to give the DHHR the ability to assess penalties to behavioral health centers that are not meeting requirements and are putting consumers' health and safety at risk. Details of assessing of penalties will be put in the Rule and regulations. Proposed changes can be viewed on the Secretary of State's website. Jolynn stated a decline in care and treatment has been seen in residents of behavioral health centers, and that is the reason behind the push for the change. Nancy voiced a concern about a conflict between 64CSR11 (Behavioral Health Rule) and 64CSR74 (Consumer Rule) and Jolynn said it would not be a conflict.

COVID-19 Vaccine Information

Amber raised concerns about the prioritization of people with disabilities being vaccinated during an Olmstead Council Executive Committee meeting. Steve, Ann, Carissa, Linda Higgs, and Christy Black developed questions that were posed to Jeremiah Samples, DHHR Deputy Secretary regarding the status of these vaccinations. Emily Hopta with DHHR was supposed to attend the Council meeting but was unable to do so. She sent the questions to the taskforce and stated she will send answers to the Council once she has them. Ann reviewed the questions with the Council. Council members discussed concerns with the vaccination process. Several members are participating in a weekly call with WV Volunteers Active in Disasters.

Membership Update

Positions for people with disabilities or family members, Home Health provider, and TBI Waiver provider are open.

Old Business

Annual Work Plan

Steve stated that we need a Work Plan for the Council and Coordinator and a Work Plan for the Olmstead Plan. Council members are welcome to submit suggestions. The Executive Committee will work on these documents.

New Business

Bylaws

Some information in the Bylaws differ from the information listed in the Olmstead Plan Update. Neither the West Virginia University Center for Excellence in Disabilities nor the West Virginia Department of Education are listed as members in the Bylaws. Neither of our officers meet the criteria of being a member of the Council due to having a disability or being a family member of a person with a disability in the Bylaws. Ann suggested having a group review the Bylaws and other members agreed. Ann will chair this workgroup and the proposed changes will be sent to the Council prior to the next meeting.

Agency Olmstead Related Updates

TAKE ME HOME

Marcus gave an update on Take Me Home (TMH). Money Follows the Person was reauthorized as part of the federal omnibus budget bill in December. TMH will be fully funded through 2023. Budget allocations can be spent through 2027. Effective April 1, 2021, the number of days in a qualifying institution to be considered eligible will decrease from 90 consecutive days to 60 consecutive days. The restriction for paid days specifically for rehabilitation purposes has also been lifted. The Centers for Medicare and Medicaid Services announced states will have access to \$5 million for systems change initiatives. The proposal for initiatives is due in June and funds will be available for use for five years. Qualifying institutions are nursing homes and hospitals. Institutions of Mental Disease (such as state psychiatric hospitals) are no longer qualifying institutions.

Disability Rights of WV

Jason gave an update on individuals in state psychiatric hospitals who are ready for discharge but cannot find placement and what Disability Rights of WV (DRWV) is doing. Information was distributed to Council Members prior to the meeting. DRWV also monitors prisons and jails and participates in reentry meetings. Jason sent information regarding what criminal justice entities have done to ensure compliance with the Americans with Disabilities Act. In reviewing policy priorities, he noticed that there needs to be a formal agreement between all the state agencies affected by the *Olmstead* decision, and he mentioned asking the Department Homeland Security to participate on the Olmstead Council. Steve stated that we need to take a broader look at these issues. Lynsay mentioned training for law enforcement to help them work with people with disabilities.

TRANSITION AND DIVERSION PROGRAM

Funding is not available yet. Carissa will send an email to Council Members to see who is interested in serving on a committee to review applications and discuss the business of the program. The committee will report to the full Council.

Announcements

The Fair Shake Network is hosting their Annual Legislative Training Day and Disability Advocacy Day on March 16th and 17th.

Steve adjourned the meeting without objection at 12:09 p.m.

Save the Date: Future meeting dates: **May 6th, August 5th, November 4th**