

**Building Inclusive Communities
in West Virginia**



ANNUAL OLMSTEAD REPORT

The Year in Review

STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL

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August 31, 2018

The Honorable Jim Justice
Governor of West Virginia
State Capitol Building
Charleston, WV 25305

Dear Governor Justice:

On behalf of the Olmstead Office, and in accordance with the Olmstead Plan, Building Inclusive Communities: Keeping the Promise, I am pleased to submit to you the Annual Report for state fiscal year 2018.

Please contact the Olmstead Office with questions or information requests. We are happy to provide assistance.

Sincerely,

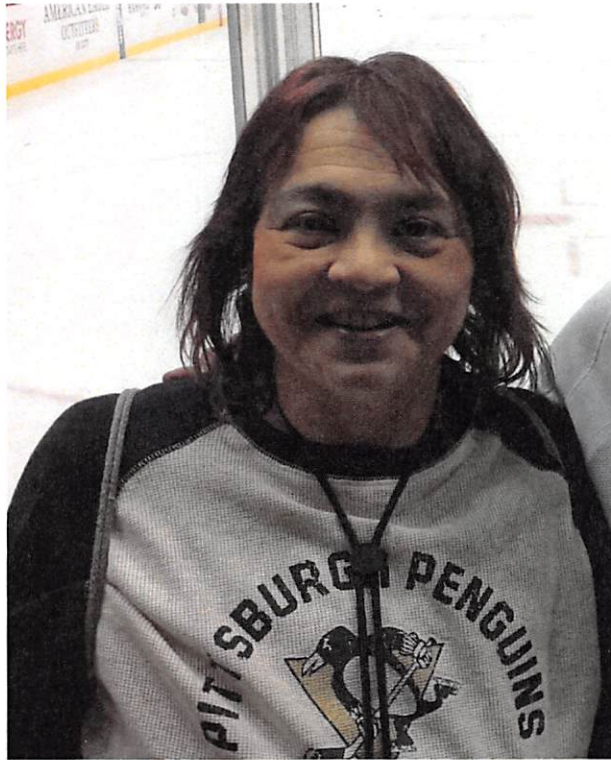


Vanessa K. VanGilder
Olmstead Coordinator

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Remembering Regina Mayolo



It is with great sadness that we bid farewell to our long-time colleague and friend, Regina Ann Mayolo. Regina passed away on October 12, 2017. She was a member of the West Virginia Olmstead Council and was an expert on the Americans with Disabilities Act, housing, and service animals.

The Horace Mann quote, “Be ashamed to die until you have won a victory for humanity,” was a quote Regina cherished. She was an advocate in her professional and personal life, and she lived to serve and help others in need however possible. She worked for the West Virginia Assistive Technology System where she strived to improve access to assistive technology for individuals with disabilities. She also served as the executive director for the Community Living Initiatives Corporation where she provided resources for seniors, their care givers, and families, enabling older adults to live comfortably in their community of choice. Regina was a Certified Aging in Place Specialist and advocated for resources in the Morgantown area to meet the needs of seniors. She was also a founding partner of the Fair Housing Action Network. In 2014, Regina and several friends created a nonprofit called Community Housing Action Partnership which brought community members together to develop safe, affordable housing that is attainable to all.

Olmstead Mission Statement

The mission of the Olmstead 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 Olmstead 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.

Guiding Principles

- People with disabilities, regardless of the severity of the disability, can be supported to live in the community and setting of their choice.
- People with disabilities must have choice and control over where and with whom they live.
- People with disabilities must have opportunities to live integrated lives in communities with their neighbors and not be subjected to rules or requirements that are different from those without disabilities. Integration does not just mean physical presence in a neighborhood, but valued and meaningful participation in community services and activities.
- People with disabilities must have access to information, education, and experiences that foster their ability to make informed choices while respecting dignity of risk.
- People with disabilities must have opportunities to develop valued social roles, meaningful personal relationships, and activities of their choice.
- People with disabilities must have meaningful opportunities for competitive employment.

Introduction: The *Olmstead* Decision

In 1995, the landmark case now known as *Olmstead v. L.C.* was brought by the Atlanta Legal Aid Society on behalf of Lois Curtis and Elaine Wilson, who were confined in a state psychiatric hospital in Georgia. Hospital staff agreed that both women should be discharged to supportive community programs, but no such placements were available and the state of Georgia offered nursing facility placements. Ms. Curtis and Ms. Wilson believed this action violated their rights under Title II of the Americans with Disabilities Act (ADA).



Lois Curtis

The memories of living in institutional settings since the age of 13 will remain with Lois Curtis. Her story did not end after the landmark Supreme Court decision. Ms. Curtis lived in staffed residential settings after her discharge from the institution. She now rents a beautiful home in Stone Mountain, Georgia, with a fellow artist and friend. Ms. Curtis herself is a successful artist. When asked what her artwork means to her, she responded, “My art been around a long time. I came along when my art came along. Drawing pretty pictures are a way to meet God in the work like it is.” On June 20, 2011, Lois Curtis presented President Barack Obama with a gift of one of her original paintings during a visit to the White House’s Oval Office. The “Girl in Orange Dress” is one in a series of three pastel self-portraits that Ms. Curtis created because she has no photographs to mark her own childhood.



Elaine Wilson

During her lifetime, Elaine Wilson had 36 stays in mental institutions. At a hearing in Georgia before Judge Marvin H. Shoob, Ms. Wilson testified, "When I was in the institution, I felt like I was in a little box and there was no way out." Her story began when Ms. Wilson was an infant and a 107 degree fever damaged her brain. Her mother tried to provide a normal life. She first sent her to public school, then private school, then an Augusta school for children with disabilities. Ms. Wilson lived in multiple institutions and shelters starting at age 15 and was subjected to shock treatment and psychotropic drugs "that knocked her out and ruined her kidneys," said her mother, Jackie Edelstein of Atlanta. Once Ms. Wilson was placed with a caretaker and given independence, her life changed dramatically. "She blossomed," said Legal Aid attorney Sue Jamieson of Atlanta, who took on the case in 1995. "She took an interest in cooking and church and her personal appearance. She wanted to do advocacy for other people so [she] acquired training in presenting workshops and giving speeches."

"We saw Elaine become very independent and very proud of her independence," said Harriet Harris of Lithonia, executive director of Circle of Support Inc., who provided Ms. Wilson with caretakers. "She loved to shop at Wal-Mart and Kmart and the grocery store. One of her hobbies was to clip grocery coupons in the Sunday paper. She spent hours picking out greeting cards. She loved to visit people and have people come visit her. She was a very social person." Elaine Wilson died in 2004 at the age of 53.

The *Olmstead* Case

The plaintiffs were successful throughout the judicial process. The Georgia Department of Human Resources appealed to the U.S. Supreme Court the lower court's decision that Georgia had violated the ADA's integration mandate by segregating Ms. Curtis and Ms. Wilson. On June 22, 1999, the U.S. Supreme Court issued its ruling that such segregation is a form of discrimination prohibited by the ADA because:

- It perpetuates unwarranted assumptions that people with disabilities are incapable or unworthy of participating in community life.
- Confinement in an institution severely diminishes the everyday life activities of individuals, including family relations, social contacts, work options, economic independence, educational advancement, and cultural enrichment.

Olmstead has been called the *Brown v. Board of Education* for people with disabilities. Like *Brown*, it is forcing change very slowly, and through determined and vigorous advocacy. *Olmstead v. L.C.* upheld the rights of people with disabilities to live and receive supports in the most integrated setting in their community. Title II of the ADA was the basis for this landmark decision. Title II of the ADA applies to state and local government entities and the programs funded and administered by them. Two regulations under Title II were fundamental to the *Olmstead* decision:

- The integration regulation mandates that states “shall administer services in the *most integrated setting appropriate* to the needs of individuals with disabilities.” The most integrated setting is “a setting that enables individuals with disabilities to interact with non-disabled persons to the fullest extent possible.”
- The reasonable modifications regulation mandates that states “shall make reasonable accommodations in its policies, practices, or procedures when necessary to avoid discrimination, unless modifications would fundamentally alter the nature of the services, programs, or activities.” The Supreme Court stated that, “...if the State were to demonstrate that it had a comprehensive, effectively working plan for placing qualified persons...in [most integrated] settings, and a waiting list that moved at a reasonable pace, not controlled by the State's endeavors to keep institutions fully populated, the reasonable modification standard would be met.”

A Milestone for Community Living: Reflecting on Olmstead

Statement by Lance Robertson, Administrator and Assistant Secretary for Aging, U.S. Department of Health and Human Services, Administration for Community Living, June 22, 2018.

The right to live independently, integrated into the community, is a cornerstone of the disability rights movement. It's also the core of the mission for the Administration for Community Living — it's even built into our name. ACL was created around the fundamental principle that all people, regardless of age or disability, should be able to live independently and fully participate in their communities.

For decades, people with disabilities have worked to turn this principle into a reality. Looking at this history, certain moments stand out as turning points. For example, the passage and implementation of landmark legislation including the Americans with Disabilities Act, Rehabilitation Act, Individuals with Disabilities Education Act, and Developmental Disabilities Assistance and Bill of Rights Act have each helped make community living possible for more Americans.

The *Olmstead* decision opened the door to innovations and programs that make services and supports more available, allowing people to live the lives they choose, in the communities they choose, with family and friends. It also has given the aging and disability networks a new tool to advance community living. I am proud of the work ACL, the predecessor organizations it brought together in 2012, and the many organizations we fund have done to fulfill *Olmstead's* promise and make a difference in peoples' lives.

For example, across the country protection and advocacy systems are working to translate *Olmstead's* charge into more integrated schools and workplaces, as well as more services and supports in the community. Centers for Independent Living offer the peer support, tools, and resources many need to live in the community, including helping those living in institutions transition to the community.

This year we are also proud to celebrate the 40th anniversary of the creation of ACL's National Institute on Disability, Independent Living, and Rehabilitation Research and the Title VII Independent Living Programs, both established by the Rehabilitation Act. Each has been a catalyst for progress and continue to spur innovation, training, technology, and other services that promote independence, community participation, and employment.

People of all ages have benefited from *Olmstead*. ACL's programs for older adults are doing their part to make community living possible by providing critical services, including meals and caregiver support.

ACL, our networks, and partners are demonstrating that expanding community living options is both the right thing to do and it's often the fiscally responsible thing to do. Skilled nursing and residential living can cost upwards of \$225,000 a year. Services and supports provided in the community are usually far less expensive. The potential for cost savings can be seen in a demonstration program known as Money Follows the Person (MFP). The program eliminates barriers to home- and community-based services and allows people to transition out of institutional settings and receive long-term services and supports at home. A report released by the U.S. Department of Health and Human Services in December looking at eight years of MFP data estimated that, in the first year after transitioning into the community, MFP participants saved Medicaid and Medicare \$978 million in medical and long-term support and services costs.

We've come a long way since the *Olmstead* decision, but we're far from done. As important as our successes are—especially to the people who now live independently in communities—we still have a lot of work to do to make the vision of *Olmstead* and the Americans with Disabilities Act a reality.

ACL is committed to seeing community living become a reality for every older adult and person with a disability who seeks it.

I'm honored to work with you towards this important goal.

After all, while the *Olmstead* decision may have significance for older adults and people with disabilities, ultimately, it benefits all of us. Our communities and our lives are richer with a diversity of people, abilities, and perspectives. Older adults offer a critical link to our history and culture in our neighborhoods, congregations, and gatherings. People with different life experiences advance new ideas and spark innovation in business and the community.

We all miss out when community living is out of reach.

West Virginia Executive Order

On October 12, 2005, Executive Order 11-05 was signed by West Virginia Governor Joe Manchin, formally approving and directing the implementation of the West Virginia Olmstead Plan: Building Inclusive Communities. Executive Order 11-05 directs:

- The implementation of the West Virginia Olmstead Plan, the cooperation and collaboration between all affected agencies and public entities with the Olmstead Office to assure the implementation of the *Olmstead* decision within the budgetary constraints of the state.
- The submission of an annual report by the Olmstead Office to the Governor on the progress of the implementation of the Olmstead Plan.

West Virginia Olmstead Office

Vanessa VanGilder has been West Virginia's Olmstead Coordinator since October 2014. Ms. VanGilder has been an advocate for people with disabilities for 19 years. She is a graduate of Partners in Policymaking and is a member of the West Virginia Statewide Independent Living Council. She was the director of the Fair Shake Network for three and a half years and was previously a member of the Olmstead Council. She has a master's degree in Rehabilitation Counseling and also has a background in emergency services and public safety. The Olmstead Office is located in the West Virginia Department of Health and Human Resources, Office of the Inspector General.

Olmstead Council

The West Virginia Olmstead Council was established in 2003 to advise and assist the Olmstead Coordinator to develop, implement, and monitor West Virginia's Olmstead activities. 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 ADA. The council has the following responsibilities as outlined in the *Olmstead Plan*:

- Advise the Coordinator in fulfilling the position's responsibilities and duties.
- Review the activities of the Coordinator.
- Provide recommendations for improving the long-term care system.
- Issue position papers for the identification and resolution of systemic issues.
- Monitor, revise, and update the Olmstead Plan and any subsequent work plans.

West Virginia Olmstead Council Legislative Priorities for 2018

Priority 1: *Implement the West Virginia Olmstead Plan to ensure compliance with Title II of the Americans with Disabilities Act (ADA).*

- Revise the West Virginia Olmstead Plan to address federal enforcement guidelines.
- Establish a formal agreement to ensure the cooperation and collaboration between all affected agencies and public entities with the Olmstead Office to implement the Olmstead Plan, as outlined in *Executive Order 11-05*.
- Inclusion of the Olmstead Office and Council in state processes that affect the institutional and/or community-based, long-term care system.
- Improve access to home and community-based services and supports through the passage of the Community-Based Services Act or equivalent legislation.

Priority 2: *Eliminate the institutional bias in West Virginia's long-term care system.*

- Support the continued development and implementation of the Centers for Medicare and Medicaid Services Money Follows the Person (MFP) grant, Take Me Home, West Virginia.
- Increase access and availability of home and community-based services while reducing reliance on institutional settings.
- Issue an annual report that identifies institutional bias and recommendations for change.

Priority 3: *Develop and maintain a statewide, comprehensive transition and diversion program.*

- Obtain additional funding to support other transition and diversion programs throughout West Virginia.

Priority 4: *Implement a formal plan to address the major barrier of affordable, accessible and integrated housing options for people with disabilities.*

- Provide state designation of federal Home Investment Partnership Program (HOME) funds for tenant-based rental assistance.
- Identify local, state and federal housing resources either under-utilized or unutilized to address the critical housing gap in West Virginia for people with disabilities.

Priority 5: Ensure people with disabilities have opportunities for employment, education, transportation and meaningful participation in their community.

- Reduce reliance on day programs and sheltered workshops.
- Support the development of an "Employment First" Initiative.
- Support people with disabilities to participate meaningfully in their communities and to attain valued social roles.
- Support a collaborative and coordinated approach to assure available, affordable and accessible transportation.

Priority 6: Ensure children with mental health issues receive services in the most integrated setting appropriate to their needs.

- Support children with mental health issues to have access to a comprehensive array of services that address their physical, emotional, social and educational needs and receive individualized services in accordance with the unique needs and potentials of each child.
- Support children with mental health issues to receive services within the least restrictive, most normative environment that is clinically appropriate and assures that the families of children are full participants in all aspects of the planning and delivery of services.

West Virginia Olmstead Council Membership

The Olmstead Council is comprised of no more than 35 persons from the following: 8 people with disabilities and/or immediate family members; 10 advocacy or disability organization representatives; 8 providers of home and community-based services and/or supports; 7 state agency representatives; and 2 optional, at-large members.

Elliott Birckhead	DHHR's Bureau for Behavioral Health & Health Facilities
Sally Blackburn	Aging and Disability Resource Center
Angela Breeden	Charleston, WV
Manuel Campos	Spencer, WV
Marcus Canaday	DHHR Medicaid's Money Follows the Person Program
Chrissy Cantley	Oak Hill, WV
Renee Chapman	Hurricane, WV
Leslie Cottrell	WVU Center for Excellence in Disabilities
Ardella Cottrill	WV Behavioral Health Planning Council
Mark Drennan	Behavioral Health provider
Jeannie Elkins	Ashford, WV
Joyce Floyd	Elkins, WV
Mark Fordyce	Panhandle Support Services, Traumatic Brain Injury Waiver provider
Laura Friend	Home Health provider
Nancy Fry	Legal Aid of WV - Behavioral Health Advocacy Project
Susan Given	Disability Rights West Virginia
Roy Herzbach	Legal Aid of WV - Long-Term Care Ombudsman Project
Amber Hinkle	Open Doors, Inc., Intellectual and Developmental Disabilities Waiver provider
Ann McDaniel	WV Statewide Independent Living Council
Suzanne Messenger	West Virginia Bureau of Senior Services
Sherry Minter-Elliott	Dunbar, WV
Rebecca Nicholas	DHHR's Bureau for Children and Families
Pat Nisbet	DHHR's Bureau for Medical Services
Kim Nuckles	State ADA Coordinator
Meredith Pride	Appalachian Center for Independent Living
Paul Smith	Fair Shake Network
Richard Stonestreet	AARP – WV Chapter
Jenni Sutherland	Putnam Aging, Aged and Disabled Waiver provider
Richard Ward	West Virginia Division of Rehabilitation Services
Steve Wiseman	WV Developmental Disabilities Council
Jim Womeldorff	Job Squad, Inc.

Olmstead Enforcement

The U.S. Department of Justice, Civil Rights Division's Disability Rights Section, enforces Title II and Title III of the ADA, and Special Litigation Section that enforces the Civil Rights of Institutionalized Persons Act (CRIPA), have made Olmstead enforcement a top priority. Since 2008, a record number of amicus briefs, lawsuits, and intervention into state Olmstead cases has been observed.

In addition to stepping up enforcement, investigatory work has significantly changed. In the past, the first questions asked were whether the institutions under investigation were safe and whether conditions of confinement were constitutional. These are now the second questions asked. The first question asked is whether there are individuals in those institutions who could appropriately receive supports in a more integrated setting.

In 2011, the Civil Rights Division of the U.S. Department of Justice released the Statement of the U.S. Department of Justice on Enforcement of the Integration Mandate of Title II of the ADA and *Olmstead v. L.C.* This technical assistance guide was created to assist individuals in understanding their rights under Title II of the ADA and its integration mandate, and to assist state governments in complying with the ADA.

Olmstead on the National Level

Since 1999, there have been four major federal initiatives to assist state compliance with Title II of the ADA and the *Olmstead* decision. Those have been:

- The New Freedom Initiative (2000)
- The Deficit Reduction Act (2005)
- The Year of Community Living (2009)
- The Affordable Care Act (2010)

Administration for Community Living

The U.S. Department of Health and Human Services' Administration for Community Living (ACL) was initially established on April 18, 2012, by bringing together the Administration on Aging, the Office on Disability and the Administration on Developmental Disabilities. Since then, ACL has grown significantly. Through budget legislation in subsequent years, Congress moved several programs that serve older adults and people with disabilities from other agencies to ACL, including the State Health Insurance Assistance Program, the Paralysis Resource Center, and the Limb Loss Resource Center. The 2014 Workforce Innovation and Opportunities Act moved

the National Institute on Disability, Independent Living, and Rehabilitation Research and the independent living and assistive technology programs from the U.S. Department of Education to ACL.

New federal nursing facility regulations require every nursing facility to develop and implement an effective discharge plan that focuses on the residents' discharge goals and includes them as active partners. As part of that plan, nursing facilities are required to document that the resident has been asked about returning to the community; document any referral(s) made; and update the comprehensive care plan based on the response to the referral(s). See *42 CFR 483.21(c)(1)(vii)*. This regulation basically codifies what had been part of the minimum data set assessment, also known as "Section Q." This new regulation requires nursing homes to document that a resident has been asked about their interest in receiving information regarding returning to the community. If the resident indicates an interest in returning to the community, the facility must document any referrals to local contact agencies or other appropriate entities made for this purpose. Facilities must update a resident's comprehensive care plan and discharge plan, as appropriate, in response to information received from referrals to local contact agencies or other appropriate entities. If discharge to the community is determined to not be feasible, the facility must document who made the determination and why.

State Examples of Olmstead Enforcement

On December 21, 2017, the U.S. Department of Justice rescinded its Statement on Application of the Integration Mandate of Title II of the Americans with Disabilities Act and *Olmstead v. L.C.* to State and Local Governments' Employment Service Systems for Individuals with Disabilities. The statement described the obligations of states to administer their employment services for people with disabilities in the most integrated setting appropriate. Evidence-based supported employment services help people with disabilities secure and maintain competitive, integrated employment. They are critical to achieving the ADA's goals of independent living and economic self-sufficiency. The Statement reflected already established law in an area that is a top priority for the disability community – employment of people with disabilities.

U.S. v. Louisiana - 3:18-cv-608 - (M.D. LA. 2018) - On June 6, 2018, the United States filed its Complaint, a Joint Motion to Dismiss, and an Agreement to Resolve its investigation in the U.S. District Court for the Middle District of Louisiana. The Agreement lays out relief for individuals with serious mental illness in nursing facilities across the state, with provisions requiring intensified transition and diversion efforts to home- and community-based services and community-based mental health services, including supportive housing, Assertive Community Treatment, substance use disorder

services, and crisis services, to ensure individualized service planning and support successful community tenure. On December 21, 2016, the United States sent its findings to the state notifying it of violations of the Americans with Disabilities Act, which stem from its failure to deliver services to people with serious mental illness in the most integrated settings appropriate. People with serious mental illness in Louisiana often must enter nursing facilities to receive the day-to-day assistance they need when they rely on the state to provide those services. The final Agreement helps individuals with serious mental illness in nursing facilities across the state, by requiring that Louisiana work harder to assure that persons with serious mental illness are not routinely forced into nursing homes. Louisiana agreed to provide intensified transition and diversion efforts to home- and community-based services and community-based mental health services, including supportive housing, Assertive Community Treatment, substance use disorder services, and crisis services, to ensure individualized service planning and support successful community tenure. If Louisiana does not keep the agreement, it will face federal sanctions, including the loss of federal money and/or fines.

Olmstead on the State Level

The Olmstead Council, through extensive public input, developed 10 goals for West Virginia. Each goal has a series of specific objectives.

1. **Informed Choice:** Establish a process to provide comprehensive information and education so people with disabilities can make informed choices.
2. **Identification:** Identify every person with a disability impacted by the Olmstead decision who resides in a segregated setting.
3. **Transition:** Transition every person with a disability who has a desire to live and receive supports in the most integrated setting appropriate.
4. **Diversion:** Develop and implement effective and comprehensive diversion activities to prevent or divert people from being institutionalized or segregated.
5. **Reasonable Pace:** Assure community-based services are provided to people with disabilities at a reasonable pace.
6. **Eliminating Institutional Bias:** Provide services and supports to people with disabilities by eliminating the institutional bias in funding and administering long-term care supports.

7. **Self-Direction:** Develop self-directed community-based supports and services that ensure people with disabilities have choice and individual control.
8. **Rights Protection:** Develop and maintain systems to actively protect the civil rights of people with disabilities.
9. **Quality:** Continuously work to strengthen the quality of community-based supports through assuring the effective implementation of the Olmstead Plan, and that supports are accessible, person-centered, available, effective, responsive, safe, and continuously improving.
10. **Community-Based Supports:** Develop, enhance, and maintain an array of self-directed community-based supports to meet the needs of all people with disabilities and create alternatives to segregated settings.

West Virginia Department of Health and Human Resources

On June 1, 2015, the U.S. Department of Justice sent its findings to the state stating it violated the Americans with Disabilities Act and *Olmstead v. L.C.* by failing to deliver mental health services to children who rely on publicly funded care in the most integrated settings appropriate. The state is currently in discussions with the U.S. Department of Justice with the goal of reaching an agreement.

West Virginia Successes

Money Follows the Person Program

The West Virginia Department of Health and Human Resources (DHHR), Bureau for Medical Services' Money Follows the Person (MFP) Program and Olmstead-related activities have similar goals, which are to allow people with disabilities the opportunity to live in integrated community-based settings. This Rebalancing Demonstration Grant helps rebalance the long-term care system by transitioning people from institutions into the community. MFP is just one strategy that is being used to promote opportunities for people to live in integrated community settings. During state fiscal year 2018, the DHHR, Bureau for Medical Services' Take Me Home West Virginia program received 204 intakes, and 90 individuals were transitioned to a more integrated setting. During this time, 60 individuals successfully completed 365 days of participation in the community. Since the program began in February 2013, there have been 1,037 intakes. There have been 340 individuals transitioned, with 182 individuals successfully completing 365 days of participation in the community.

WV Clearance for Access: Registry & Employment Screening Unit

On August 1, 2015, the DHHR, Office of Inspector General's WV Clearance for Access: Registry & Employment Screening Unit (WV CARES) began processing background checks for current and potential nursing home employees in the state of West Virginia. Over the course of this year, WV CARES has expanded to begin screening employees in all provider types covered by the WVCARES Act. Since its inception, WV CARES has been providing monthly monitoring of approximately 68,000 long-term care employees and has provided employment fitness determinations for over 108,000 potential and current employees. With the addition of the federal background check, WV CARES found approximately 100 individuals seeking employment in the state who were wanted on various charges across the country. Several of these individuals were taken into custody by the West Virginia State Police or U.S. Marshalls for extradition.

Ventilator Care

Ventilator care can be provided by an approved medication assistive personnel (AMAP) under the supervision of a registered nurse (RN). The RN needs to have a policy and procedure in place for the ventilator care. The AMAP has to be trained in ventilator care, and the training needs to be documented. The AMAP must be observed by the supervising RN every quarter. There are other requirements for the AMAPs that are in the AMAP rule, including CPR care, First Aid training, GED or high school diploma.

Help4WV: Behavioral Health Referral and Outreach Call Center

Help4WV, the state's behavioral health referral and outreach call center, is a statewide 24-hour call center, that continues to provide resources and referral support for those seeking behavioral health services. The Help4WV maintains a live database with service options and is updated daily with residential facilities' bed capacity and additional treatment information. Help4WV works in conjunction with existing on-call or crisis support systems to strengthen ease of navigation and connectivity for callers. Individuals contacting the call center are offered behavioral health education materials, information on available behavioral health services in or near their respective location, as well as referral to the appropriate level of care based on individual needs in coordination with regional and local providers. For fiscal year 2018, there were 10,406 total calls. 3,499 of those were intakes, and 6,907 were information only calls. The most requested information was for detox, comprehensive behavioral health centers, and short-term, inpatient programs. Callers are connected to a provider during the call, and the helpline agent stays on the phone with the caller and the provider until an appointment is scheduled. Follow-up calls are also made to those who give permission.

West Virginia 1115 Substance Use Disorder Waiver

DHHR's Bureau for Medical Services announced that Medicaid recipients could begin receiving services under the West Virginia 1115 Substance Use Disorder (SUD) waiver. Phase one services became effective January 14, 2018 and include:

- **Screening, Brief Intervention, and Referral to Treatment (SBIRT):** Implemented statewide use of the widely-accepted SBIRT tool to identify SUD treatment needs among the Medicaid population.
- **Methadone treatment and administration:** Added Medicaid coverage of methadone as a withdrawal management strategy, as well as the administration and monitoring of the medication, and related counseling services.
- **Naloxone Distribution Initiative:** Implemented a statewide initiative to make naloxone widely available and increase awareness of the benefits of naloxone in reversing the effects of an overdose.

Phase two services began July 1, 2018, and will expand coverage to include Adult Residential Treatment, Peer Recovery Support Services and Withdrawal Management services.

Peer Support Certification

DHHR's Bureau for Behavioral Health and Health Facilities (BBHBF) is continuing to work on a Peer Support certification process. In the new waiver, DHHR's Bureau for Medical Services (BMS) will accept any peer recovery support certification completed prior to July 1, 2018 to be grandfathered in for the purposes of meeting this requirement. Applicants who have not previously completed a certification prior to July 1, 2018, must complete the BMS Peer Recovery Support Specialist Webinar with an 80% or higher score in order to be certified. The applicant must provide proof of certification prior to July 1, 2018, or must complete the certification of the BMS webinar on or after July 1, 2018. At this time, the BBHBF has contact information for more than 600 people who they have trained. Peers can also be trained by other programs. Grace Inc., a private agency committed to ensuring individuals with disabilities are a part of the community, has trained over 200 people. Aside from ongoing grant funding of established peer supports, the BBHBF recently made \$1,500,000 available in States Targeted Response to the Opioid Crisis Grant funds for Peer Recovery Coaches to aid and support individuals with Opioid Use Disorder (OUD) in multiple settings. More specifically, new Peer Recovery Coaches will be hired and trained with a focus on the following populations: offenders re-entering the community from incarceration in a correctional

setting; pregnant and post-partum women and their infants/children; and overdose survivors served by the emergency response system and emergency departments.

West Virginia Olmstead Office Sponsored Training

The West Virginia Olmstead Office provided \$1,000 to assist in sponsoring the annual West Virginia Housing Conference. This conference attracts more than 250 housing advocates, lenders, developers, administrators and policy makers from the non-profit, public, and private sectors each year. This year's conference will feature over 70 workshops plus opportunities to learn and network with national, state, and local experts covering the basics of housing development to funding tools and innovative models. This conference will also recognize the important connection of housing to health, economic development, and social stability for our children, families, and elder population.

Achieving a Better Life Experience Accounts

An Achieving a Better Life Experience (ABLE) Account is an investment account available to eligible individuals with disabilities. These accounts are made possible by the federal ABLE Act. These accounts allow individuals with disabilities to save and invest money without losing eligibility for certain public benefits programs, like Medicaid or Social Security. Earnings in an ABLE account are not subject to federal income tax, so long as they are spent on "Qualified Disability Expenses." These accounts have some similar features to normal bank accounts, but they are not checking or savings accounts. These accounts are investment accounts, similar to 529 college savings accounts or 401(k) retirement accounts.

West Virginia Olmstead Office

Information, Referral and Assistance Program

The West Virginia Olmstead Office provides information, referral and assistance to West Virginians with disabilities and their families concerning Olmstead-related issues. In addition to information and referral, the West Virginia Olmstead Office provides residents with assistance on Olmstead-related complaints or grievances. In state fiscal year 2018, the Olmstead Office received 724 contacts for information, referral and assistance. The biggest barrier to providing assistance is the need for systems change to decrease the institutional bias and make community-based services and supports more readily available and accessible.

Information and Referral Statistics

Month	Information and Referral Phone Calls	Assistance Funding Phone Calls	Total
July 2017	2	55	57
August 2017	6	85	91
September 2017	1	52	53
October 2017	3	47	50
November 2017	4	34	38
December 2017	1	28	29
January 2018	2	85	87
February 2018	4	86	90
March 2018	2	68	70
April 2018	1	69	70
May 2018	2	43	45
June 2018	4	40	44
Year to date	32	692	724

Olmstead Transition and Diversion Program

Since 2007, the purpose of the Olmstead Transition and Diversion Program (formerly the Transition Navigator Program) has been to assist West Virginians with disabilities residing in institutional facilities (or at-risk of institutionalization) to be supported in their home and community. In 2010, the program experienced a major change as a result of the Take Me Home, West Virginia Program. DHHR's Bureau for Medical Services (BMS) is in the process of expanding this program statewide. The West Virginia Olmstead Office has provided BMS with \$292,000 in state general revenue funding for program expansion.

The West Virginia Olmstead Office continues to offer smaller grants through the Olmstead Transition and Diversion Program. This is the only program of its kind in the United States. This program supports people for transition and diversion and focuses on those not otherwise supported by the Take Me Home, West Virginia Program. For those transitioning to the community, each participant is eligible to receive up to \$2,500 to pay for reasonable and necessary one-time start-up costs that may include security deposits, household furnishings, set up fees and deposit, moving expenses, assistive devices or technology and home access modifications. Every year there is a waiting list of people needing assistance when the funding is exhausted.

During state fiscal year 2018, the program supported 167 people through the transition and diversion process. Five people were transitioned from facilities into the community including one from Mildred Mitchell-Bateman Hospital, a state psychiatric facility in Barboursville, West Virginia. The average funding allocated per participant was \$1,239.02. The Olmstead Transition and Diversion Program has the potential to save the Medicaid program money each time it transitions or diverts someone from institutional care. Of the 167 people assisted in this fiscal year, 29 received Medicaid only, 90 received both Medicaid and Medicare, and 46 received Medicare only. Two people did not receive Medicaid and/or Medicare.

Month	# of Applications Approved	Funding Allocated	Average Cost Per Person
July 2017	1	\$746.93	\$746.93
August 2017	19	\$18,739.71	\$986.30
September 2017	7	\$6,615.50	\$945.07
October 2017	0	\$0.00	\$0.00
November 2017	0	\$0.00	\$0.00
December 2017	0	\$0.00	\$0.00
January 2018	2	\$5,000.00	\$2,500.00
February 2018	52	\$75,515.07	\$1,452.21
March 2018	49	\$56,972.81	\$1,162.71
April 2018	37	\$43,327.51	\$1,171.01
May 2018	0	\$0.00	\$0.00
June 2018	0	\$0.00	\$0.00
Year to date	167	\$206,917.53	\$1,239.02

Revising and Updating the Olmstead Plan

In response to the increased federal Olmstead enforcement and technical assistance, the West Virginia Olmstead Council is establishing a process to update the Plan. This fiscal year, the West Virginia Olmstead Office received financial assistance from the Center for Medicare and Medicaid Services through the Money Follows the Person Program to do public forums and focus groups around the state to gather information to update West Virginia's Olmstead Plan, which is 13 years old. The opportunity will also permit the Council to educate people about the Olmstead decision and West Virginia's Olmstead Plan. This information will be used to evaluate change in society and to solicit stakeholder input and feedback for updating the goals, objectives and action steps of

West Virginia's Olmstead Plan. We also hope to help explore how to bring providers to West Virginia and how to expand services. There will be four in-person public forums around the state along with focus groups and an online survey.

2018 West Virginia Legislative Session

Several bills passed during the 2018 West Virginia Legislative Session that could impact people with disabilities and the Olmstead decision goal of having people with disabilities living in the most integrated setting.

Senate Bill 397 – creating the crime of impersonating a person with a disability. The purpose of this bill is to make it a misdemeanor to impersonate a person who is blind or disabled. The bill makes it a misdemeanor for a person to fraudulently represent himself or herself to be the owner or trainer of a service animal.

Senate Bill 575 – providing 24 additional intermediate care facility (ICF) beds. The purpose of this bill is to provide a limited exception to the ban on new certificates of need for beds in intermediate care facilities, to authorize the Cabinet Secretary of West Virginia Department of Health and Human Resources to designate where the 24 beds approved in the bill may be located, and to provide that the beds may only be used to move individuals to a less restrictive setting or to prevent individuals from entry to a more restrictive setting.

House Bill 3104 – to transfer administration of the West Virginia Traumatic Brain and Spinal Cord Injury Rehabilitation Fund to the West Virginia Department of Health and Human Resources.

House Bill 4006 – to improve the focus on school-level continuous improvement processes and staff professional development. This bill also eliminates the West Virginia Department of Education and the Arts and moves those agencies to other places in state government. The Division of Rehabilitation Services moved to the Department of Commerce.

House Bill 4035 – creating a legislative coalition to study and report to the Legislature on palliative care.

House Bill 4199 – to permit a nursing home to use trained individuals to administer medication under the direction of a registered professional nurse. Governor Justice vetoed this bill.

Senate Bill 359 – to authorize the West Virginia Supreme Court to establish curricula for Mental Hygiene Commissioners and those magistrates designated by the chief judge

of a judicial circuit to hold probable cause and emergency detention hearings involving involuntary hospitalization. The bill eliminates the requirement that new mental hygiene commissioners undergo a minimum of three days training in mental hygiene areas and removes the requirement that the training program include training in manifestations of mental illness and addiction.

House Bill 2848, The Livable Home Tax Credit, was introduced but did not pass. This bill would have provided a tax credit for modifications to homes made more accessible for an elderly person or a person with a disability.

West Virginia Barriers Identified by the Olmstead Council

Just as there are successes, the Olmstead Council has identified barriers that impede or prohibit individuals from accessing supports and services that are necessary to maintain their presence in the community. It is important to note that this is not an all-inclusive list of barriers.

- The Eligibility Process: The eligibility process for Medicaid waiver programs is more restrictive, complicated, and lengthy as compared to the process for institutional care settings.
- The Aged and Disabled Waiver and Traumatic Brain Injury Waiver do not provide any skilled nursing services.
- Medicaid Long-Term Care Budget: A greater percentage of the overall Medicaid long-term care budget is spent for institutional care when compared to community-based supports.
- Workforce: There is a lack of an available, responsive, and competent workforce to provide direct services to enable people with disabilities to remain or return to their home and community.
- Waiting lists: These are in place for eligible applicants of the following West Virginia programs: Individuals with Developmental Disabilities (I/DD) Waiver Program, the Aged and Disabled Waiver Program, the Traumatic Brain Injury Waiver Program, the Lighthouse Program, the Family Alzheimer's In-Home Respite Program, the Housing Choice Voucher Program, the Community Living Services Program and the Olmstead Transition and Diversion Program.

- **Housing:** There is a lack of affordable, accessible, and available housing for people with disabilities.
- **Alternatives to Nursing Facility Care:** The Aged and Disabled Waiver Program does not provide a comparable or functional alternative to nursing facility care, nor does it provide personal care options.
- **Medicaid Personal Care:** These services are not available to all recipients of the Aged and Disabled Waiver Program.
- **Informed Choice:** Adequate education on home- and community-based service and support options is not required to be provided prior to institutional placement, or regularly thereafter.
- **Incentives to Provide Institutional Care:** The cost-based reimbursement methodology incentivizes institutional care.
- **Mental Health and Substance Abuse Services:** The current community service system for people with mental illness and co-occurring disabilities is fragmented and inadequate forcing them into involuntary treatment.
- **Case Management Services and Transition:** Case management services, which are already an established Medicaid waiver service, are not effectively used to support people in transitioning from institutional care to the community.