



VIA EMAIL: laura.nuss@dc.gov
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January 14, 2015

Director Laura Nuss
D.C. Department on Disability Services
1125 15th St., NW
9th Floor
Washington, DC 20005

Re: Comments on D.C. Transition Plan for the Home and Community-Based Services Waiver

Dear Director Nuss:

University Legal Services (ULS) is the federally mandated protection and advocacy program for individuals with disabilities in the District of Columbia. One of our roles is to advocate for the inclusion and integration of individuals with developmental disabilities in the community. As such, we are writing to provide comments regarding the D.C. Transition Plan for the Home and Community-Based Services Waiver for Individuals with Intellectual and Developmental Disabilities (“Transition Plan”).

ULS applauds the District on its recognition of the tremendous importance of ensuring that individuals with intellectual disabilities are included in their community -- in housing, employment, and activities. The Transition Plan recognizes the importance of significant training needed to change a culture of dependence. Training is vital, but not enough.

Choice is critical and may be the key to successfully ensuring inclusion; however, the system has a long way to go, as many individuals are given little to no choice. The CMS Rule requires that individuals receiving HCBS services have “opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as [people] not receiving Medicaid HCBS.” That is not achieved in isolated day programs or group homes where individuals rarely leave.

Therefore, the Transition Plan should include specific steps that DDA will take to ensure that the providers actually meet the standards required by the rule. The Transition Plan should include deadlines and list specific graduated penalties for failure to meet those deadlines, including increased oversight and delineated restrictions that will be placed on a provider's license and certification.

ULS strongly supports the Transition Plan's requirement that every individual receiving HCBS be surveyed. ULS also supports stakeholder involvement in the development of a survey tool that will be used in the assessment process. ULS encourages DDA to include specific provisions in the Transition Plan requiring that family members/significant others be given notice of the opportunity to contribute to the assessment as well as be permitted to do their own assessment of the provider.

Finally, the Transition Plan needs to include a formal procedure that will enable individuals who are segregated, as well as their family members/significant others, to file a grievance or file a complaint for a provider's segregating conduct and its failure to meet the requirements of the CMS Rule. DDA should have a formal grievance process to give voice to those who have complaints.

At the November 17, 2014, public forum, ULS understood that there would be a revised Transition Plan published and was unclear of the deadline for submitting comments. These comments are based on the October 28, 2014 Transition Plan provided at that forum. If there is a newer version, ULS would like to receive a copy. Thank you for your consideration of these comments.

We welcome the opportunity to discuss these comments further. Please feel free to contact me at (202) 547-0198, ext. 107 or mclark@uls-dc.org with additional questions.

Sincerely,

/s/

Mary Nell Clark
Managing Attorney