



Iowa's Olmstead Consumer Task Force

May 31, 2014

Department of Human Services – Iowa Medicaid Enterprise
100 Army Post Road
Des Moines, Iowa 50315

Re: HCBS Settings Transition Plan - Olmstead Consumer Taskforce Comments

To Whom It May Concern:

Thank you for the opportunity to comment on the draft Transition Plan intended to bring Iowa into full compliance with the CMS rule defining integrated settings for HCBS services. The use of public funds to support people with disabilities and mental illness in fully integrated service settings is central to the *Olmstead* vision of “Life in the Community for Everyone.” The Taskforce fully supports the purposes and proposed approach of the draft plan published by DHS, including its extension to employment services which support opportunities to work in competitive and integrated settings. However, that support is tempered by awareness of the risks of unintended consequences as service systems and their funding streams are realigned.

When the Centers for Medicare and Medicaid Services promulgated a version of the proposed rule in the spring of 2012 and invited public comment, the Taskforce expressed general support, but stated that an extensive transition period would be needed. Providers who have in good faith developed service and housing models that are inconsistent with the rule on integrated settings need time, as does Iowa Medicaid Enterprise, for a careful, orderly transition that leaves no one without services. As facility-based services become less available, (and they will be, because more and more people will opt for services in integrated settings if that choice becomes a reality), we need to protect the choices and the quality of life for individuals whose needs are most difficult to meet. It is reassuring to see that CMS is allowing a five year transition period. The Taskforce will watch the transition process closely.

That being said, the Taskforce recognizes that the gap between the desired outcomes and present reality is huge, and a great deal has to be accomplished between now and 2019. The site assessment process for which timelines are presented in the draft transition plan will be an enormous and complex undertaking in and of itself, since its scope includes consideration not just of *where* people live and work but also *how empowered they were* to make

meaningful choices about their situation. Measurement is bound to be inexact; what is to be hoped for is steady, observable progress in the expansion of real choices in every aspect of people's lives.

The Taskforce has several specific concerns and recommendations.

Capacity as a constraint on choices. There is considerable anecdotal evidence that Medicaid members today have sharply limited options not because providers and case managers are insensitive to the importance of choice but simply due to a lack of community capacity. Providers cannot afford to maintain an array of "slots," facility based employment is the only option in many rural areas, and affordable and accessible housing is in short supply. IME is already working with state partners on a number of important initiatives, such as the redesign of the employment service system to incentivize providers to shift focus to real jobs in integrated settings, and collaboration with the Iowa Finance Authority to increase access to affordable housing in the community. The Taskforce has consistently supported these efforts and will continue to do so.

A particular concern of the Taskforce has been disability-specific housing projects with high concentrations of individuals receiving HCBS services. IME was already working to ensure more integrated settings, and we support those efforts, even though CMS seems to have backed away from the more restrictive approach taken in 2012. We strongly support efforts to ensure compliance with the rule's prohibition of HCBS services on or adjacent to campus settings of institutional providers. Promoting more integrated settings in these instances will, again, require access to affordable, accessible housing in the community.

Another major concern related to system capacity is the difficulty in attracting and retaining competent direct support staff. Providers, who already face challenges in this area, are concerned that the new rule's emphasis on individualized supports will require higher staffing levels. Offering differential reimbursement rates based on staff competencies may provide some help in recruitment and retention.

Awareness, attitude, and education. Money Follows the Person transition specialists cite the importance of natural supports (family, friends and community) in overcoming obstacles faced by residents of ICFs/MR who want to return to community. Not every Medicaid member residing, or at risk of residing, in an institution will have the good fortune of a watchful case manager interested in securing their independence in the community, family members willing to build accessible homes for them, and providers willing to take on people with complex needs, but any such success stories need to be told widely, in person, online and in printed materials. The Taskforce suggests that opportunities be sought at conferences, staff trainings and parent meetings, to help all stakeholders understand the significance of the new rule for disability rights under *Olmstead*, and their responsibilities to protect those rights. Education on the rule might be

incorporated as a training module in the College of Direct Support, with workers specifically encouraged to describe their efforts to implement what they have learned in their online portfolios.

Financial incentives. The Taskforce supports IME's on-going efforts to provide financial incentives to providers to shift from institutionally-based services to HCBS.

Compliance. The Taskforce recognizes the good faith of many providers who have committed to working with DHS to achieve compliance with the new rule. In the end, the mission of the Taskforce is to monitor Iowa's progress in achieving disability rights under *Olmstead*. Regardless of whether a failure by providers to comply is due to financial concerns, inability to recognize the real potential of people with disabilities and mental illness to live successfully in the community, or the belief that somehow, in the end, the weight of the *status quo* can stall momentum towards positive change, that failure is unacceptable and DHS may have to take appropriate action. The Taskforce recognizes that the five year transition plan is an attempt to build the necessary partnerships to achieve the purposes of the rule, in a careful process which leaves no consumer behind.

Thank you again for the opportunity to comment.

Sincerely,

Geoffrey M. Lauer

Geoffrey M. Lauer
Chair