

A Checklist for Determining Whether Legislation Or Policies Meets the Mandate of the Olmstead Decision

Olmstead V. L. C. (527 U.S. 581, 1999)

This checklist provides key components found, in whole or part, in legislation, policies, and rule making that are in compliance with the Olmstead decision of the US Supreme Court. As you prepare or review draft legislation, policies, and rules, ask yourself:

Does this legislation, policies, or rules:

- **Move Iowa toward a system of community-based services?** Does it increase community capacity to provide supports and services that older Iowans and people with disabilities can use to remain in their homes and local communities?
- **Ensure choice?** Does it avoid forcing older Iowans and Iowans with disabilities to live in an institution or a nursing home in order to get essential care or services?
- **Protect human rights by supporting self-direction?** Does it respect the rights of older Iowans and people with disabilities to choose where they will live, what services they will use, and from whom they will get these services?
- **Avoid inappropriate institutionalization?** Does it call for screening immediately before and regularly after placement of all people entering or living in nursing homes and other institutions, to determine their level of need and identify strategies to overcome barriers that keep them from living in the community?
- **Help people return to their communities?** Does it move people off waiting lists and into community-based services at a reasonable pace, one that is not set by a desire to keep institutions full?
- **Make optimal use of available funding?** Does it seek out and tap federal and other funding opportunities for home and community-based services?
- **Fight institutional bias?** Does it fund community-based and institution-based services equally, and support implementation of the US Department of Justice settlement with the State Resource Centers?
- **Fund existing programs that support community-based services?** Does it call for adequate funding of existing programs that encourage integrated, community-based services?
- **Avoid caps that compel institutional bias?** Does it avoid arbitrary expenditure caps on covered home and community services, so that caps can neither force institutionalization nor lead to the denial of community care?
- **Simplify eligibility?** Does it create a single, consistent set of eligibility requirements for Iowa Medicaid waiver programs?
- **Eliminate discrimination?** Does it use program, activity, and service eligibility criteria that do not discriminate against older people or people with disabilities?
- **Reinforce natural support systems?** Does it permit funding to pay for natural supports as well as agency-based services?
- **Fund people, not programs?** Does it provide flexible funding that allows individuals practicing self-direction to purchase the services and supports they need to accomplish their own goals, and to spend funds in their own communities so that local market forces shape more efficient, effective services?