

CLRD

Coalition for the Legal Rights of People with Disabilities

March 2, 2011

Representative John Doe
State House Room xxx
Boston, MA 02133

Dear (Legislator),

CLRD, the Coalition for the Legal Rights of People with Disabilities, is a broad coalition of legal and other advocates, including people with disabilities and their family members, united to promote empowerment, liberation, and integration of all people with disabilities in the Commonwealth of Massachusetts. The Coalition seeks to preserve and extend the supports for and rights of people with disabilities through education, legislative lobbying, legal intervention, and systematic advocacy.

We write to you today during a critical stage in the Commonwealth's budget setting process to emphasize the magnitude of the difficult decisions which must be made in connection with what are admittedly significant fiscal challenges. As you may know, July 26, 2010 marked the 20th anniversary of the Americans with Disabilities Act. This landmark legislation has, both literally and figuratively, opened doors for individuals with disabilities in almost every facet of their lives. Perhaps most importantly, the ADA codified the right of people with disabilities to participate equally, and to be integrated to the maximum extent possible, in American society. In 1999, the U.S. Supreme Court reinforced the ADA's "integration mandate" in *Olmstead v. L.C.*, 527 U.S. 581 (1999), thereby endorsing community living to the broadest scope attainable.

Subsequently, on September 12, 2008, the Commonwealth's Olmstead Plan was adopted as "a roadmap and action plan reflecting Governor Patrick's commitment to ensuring that people with disabilities and elders have access to community-living opportunities and supports that address each individual's diverse needs, abilities and backgrounds." The fundamental goals of the Olmstead Plan are to: help individuals transition from institutional care; expand access to community-based long-term supports; improve the capacity and quality of community-based long-term supports; expand access to affordable and accessible housing with supports; promote employment of persons with disabilities and elders; and promote awareness of long-term supports.

Despite those promising developments, community-based support systems have been harmed by many years of cuts to various health and human services programs. Now, the

Governor's 2012 H1 budget proposal indicates that difficult decisions must be made regarding whether or not further cuts are necessary to these already fragile, yet essential programs. Rather than simply accept the Governor's budget recommendations, we urge you to maintain a level of funding for these programs sufficient to carry out their Olmstead obligations to allow people with disabilities to successfully live in the community, including:

- Independent Living Centers (funded through Massachusetts Rehabilitation Commission). Centers for Independent Living served 18,351 people with disabilities in 2010. Proposed cuts will severely limit their ability to divert and transition individuals from nursing homes and institutional settings into the community and empower people with disabilities to gain practical independent living skills through advocacy, peer support and PCA services.
- Community Services for individuals with intellectual and developmental disabilities. More than 38,000 children and adults in Massachusetts receive services from the Department of Developmental Services in conjunction with Mass Health and the Department of Public Health. Proposed cuts to Day Habilitation, Adult Foster Care, employment services and Family Support will further reduce individual choice and independent living skills and create additional burdens for exceedingly strained family members and caregivers.
- Adult Day Health. Over 11,000 individuals with disabilities and frail elderly Massachusetts residents who attend approximately 140 adult day health centers in the state would lose critical nursing care, medication monitoring, access to healthy meals, and the ability to participate in social and physical activities, if proposed cuts to the program occur. Many centers would be forced to close, and thousands of individuals could be forced into nursing homes.
- Mental Health Services. Significant proposed cuts to Clubhouses, children's MH services, housing, and emergency services will impede discharges from expensive inpatient facilities and increase hospital re-admissions due to a lack of community-based services.
- Massachusetts Rehabilitation Commission. Cuts to the Supported Living program would severely obstruct the Commonwealth's Community First commitment to empower and support individuals with disabilities and elders to live with dignity and independence in the community.
- DBCAN Program. The Deaf-Blind Community Access Network program is a collaborative program between the Massachusetts Commission for the Blind and the Massachusetts Commission for the Deaf and Hard of Hearing which funds Service Support Providers who assist with vital community living tasks such as shopping, banking and attending medical appointments. Without this program, members of the Deaf-Blind community would be forced to rely on more expensive state services.

We ask that you express your commitment to the principals of the Olmstead decision and to community living for people with disabilities by restoring adequate funding to all human services programs. The U.S. Department of Justice (DOJ) has cautioned that as states manage budget cuts in an economic downturn, the ADA mandate to avoid the risk

of unnecessary institutionalization may not be compromised. The DOJ's Principal Deputy Assistant Attorney General for Civil Rights recently stated:

*A state cannot choose to solve a fiscal crisis by taking steps that impede integration when other available solutions would promote integration...*¹

The decisions that you and your fellow lawmakers will make in the coming weeks directly impact the everyday lives of thousands of people living with a broad range of disabilities across Massachusetts. Many of the cuts proposed by the Governor will have dramatic human consequences, adversely affecting the ability of individuals with disabilities to live independently in the community of their choice, to work, to receive adequate healthcare and to participate in educational and social activities that so many of us take for granted. Ultimately, further cuts will lead to increased isolation and institutionalization of many residents of Massachusetts who receive services from one or more EOHHS Departments. Moreover, the cost of providing institutional care is generally higher than providing community-based services and support, so any cuts to human services programs will bring about additional long term costs well beyond any perceived short term savings. According to EOHHS, "in many instances, community-based care can be provided more cost-effectively than care in a nursing facility or institution."²

As organizations dedicated to full integration of individuals with disabilities, we are committed to ensuring that budget considerations do not impact people with disabilities in a manner which deprives them of their civil and human rights. We urge you to make the same commitment.

Thank you for your consideration of our concerns.

Sincerely,

Thomas P. Murphy, Esq.
Chairperson
Coalition for the Legal Rights of People with Disabilities

¹ Samuel R. Bagenstos, Principal Deputy Assistant Attorney General, Civil Rights Division, Department of Justice, Remarks as Prepared for Delivery at the University of Cincinnati, March 3, 2010, ("Bagenstos") available at http://www.justice.gov/crt/speeches/bagenstos_speech_cincinnati.pdf at 12.

² See <http://www.mass.gov/?pageID=eohhs2subtopic&L=5&L0=Home&L1=Government&L2=Special+Commissions+and+Initiatives&L3=Managing+Performance+at+EOHHS&L4=Putting+Community+First&sid=Eeohhs2>

CLRD Member Organizations

The Arc of Massachusetts
Boston Center for Independent Living
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Massachusetts Developmental Disabilities Council
Massachusetts Office on Disability
Mental Health Legal Advisors Committee
MPOWER