February 2016

Fulfilling the Dream: Aligning State Efforts to Implement Olmstead and End Chronic Homelessness

In the introduction to *Opening Doors: Federal Strategic Plan to Prevent and End Homelessness*, President Obama affirms, "Since the founding of our country, 'home' has been the center of the American dream. Stable housing is the foundation upon which everything else in a family's or individual's life is built." Across the country, many states and communities are engaged in efforts to achieve the dream of "home" for individuals with disabilities. This work typically focuses on ending chronic and long-term homelessness among individuals with disabilities, and ensuring community integration for individuals with disabilities is in compliance with Title II of the Americans with Disabilities Act ("ADA"), as upheld by the U.S. Supreme Court in *Olmstead v. L.C.*[1]

Both ending chronic homelessness and implementing the directives of *Olmstead* and the ADA include expansion of housing opportunities and community supports — often for an overlapping population. Too often, however, state and local efforts are focused on either ending chronic homelessness *or* complying with the ADA. The results can be inconsistent policies, funding requirements, and program strategies, as well as competition for resources, political support, and policy attention.

This document makes the case for greater state and local alignment of efforts to end chronic homelessness and efforts to comply with the community integration mandate under Title II of the ADA. States and communities can more effectively assist individuals with disabilities by approaching these efforts through a unified strategy, guided by a single vision of expanding housing and services (e.g., permanent supportive housing) to support community living. There are numerous benefits to aligning these efforts, including:

- Reduced competition for political support, funding, and attention of government officials and administrators.
- A more consistent and aligned approach to expanding housing opportunities for both groups of individuals.
- A more consistent approach to financing and supporting the delivery of services that support community living.

[1] Olmstead v. L.C., 527 U.S. 581 (1999). In 1999, the U.S. Supreme Court's Olmstead decision affirmed that "institutional placement of persons who can handle and benefit from community settings perpetuates unwarranted assumptions that persons so isolated are incapable or unworthy of participating in community life," thus qualifying as a form of discrimination prohibited by Title II of the Americans with Disabilities Act (ADA). As a result of Olmstead, states are obligated to provide that people with disabilities live in the most integrated settings appropriate to meet their needs in community settings rather than institutions when: 1) services are appropriate to the needs of the individual, 2) affected persons do not oppose community-based treatment, and 3) community-based services can be reasonably accommodated, taking into account the resources available to the public entity and the needs of others who receive disability related services.

- A stronger community of provider organizations with greater expertise and capacity to serve individuals with a range of needs and experiences, and a more rapid adoption of evidence-based practices.

- Improved quality of housing, including higher-quality living environments coupled with a strong emphasis on community integration.

- Improved quality of services, with reduced fragmentation and a greater person-centered orientation, resulting in increased consumer and housing provider confidence that services will be available when needed.

This document goes on to highlight similarities among efforts to end chronic homelessness and to achieve community integration of individuals with disabilities. It also outlines ways that communities can achieve alignment by developing a local action plan that engages an array of community partners. By unifying efforts, communities can not only reduce the likelihood of facing litigation related to the ADA and *Olmstead*, but also improve services by implementing actions that link individuals with disabilities to permanent housing opportunities so that they can live with dignity, integrated into community life.

The ADA and *Olmstead*: A Legal and Policy Framework for Increasing Housing and Services

The *Olmstead* decision and Title II of the ADA obligate all states to ensure that individuals with disabilities who are eligible for state services are able to receive them in the most integrated setting appropriate to their needs. Where individuals with disabilities are unnecessarily segregated in institutional settings, efforts must be taken to comply with the legal obligation of Title II of the ADA and *Olmstead*. The U.S. Department of Justice (DOJ) has enforced Title II of the ADA, requiring states to develop systemic reforms needed to ensure that individuals with disabilities are not at serious risk of unnecessary institutionalization and are offered services in the most integrated settings appropriate to their needs.

As part of their *Olmstead* implementation efforts, states may commit new resources for housing and services, make changes to Medicaid benefits and services programs, and increase the availability of community-based housing, including permanent supportive housing. While the Supreme Court's *Olmstead* decision did not specifically address homelessness, Title II of the ADA and Section 504 of the Rehabilitation Act provide a framework that establishes responsibilities for states and other public agencies, requiring that they make reasonable accommodations to ensure that individuals with disabilities have access to community-based services, programs, and activities. The Fair Housing Amendments Act of 1988 also prohibits discrimination in housing against individuals with disabilities, and this includes the obligation of states and local jurisdictions to take affirmative steps to provide reasonable accommodations in rules, policies, and practices so as to ensure that housing is made available in the community to individuals with disabilities.

Recognizing a Common Vision and Shared Goals

Efforts to end chronic homelessness and to achieve community integration of individuals with disabilities have much in common. These similarities include:

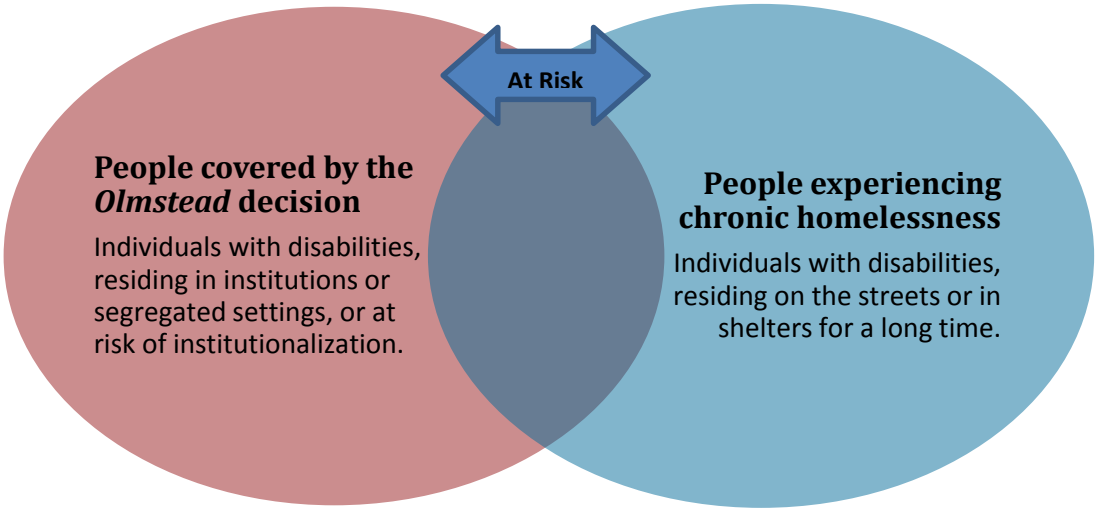
- Related and overlapping populations of individuals with disabilities.
- A shared set of values and goals.
- A shared set of strategies and solutions focused on expanding housing and services to support community living.

Overlapping Populations

There is significant overlap between individuals experiencing chronic homelessness and individuals in or at risk of institutionalization. For example, individuals experiencing chronic homelessness who have mental illness, but for whom mental health treatment services are unavailable, are often at substantial risk of entering an institution, such as a jail or psychiatric hospital, and, therefore, are covered by the ADA's *Olmstead* requirements. While there are some differences in definitions and criteria, both the ADA and policy and programs focused on chronic homelessness are centered on individuals with disabilities.

The relationship between the *Olmstead* population and individuals experiencing chronic homelessness is also bi-directional, meaning that individuals in one population are at risk of becoming the other. Research has shown that individuals experiencing chronic homelessness often find themselves caught on an institutional circuit, cycling between shelters or life on the streets and institutional psychiatric treatment facilities, inpatient hospitals, nursing facilities, jails, and prisons. Likewise, individuals with disabilities who leave institutions without access to housing and services they need to achieve stability are at risk of becoming homeless. In fact, it is possible for a person with a disability to be both at risk of institutionalization or institutionalized *and* to be experiencing chronic homelessness at the same time. See Figure 1.

Figure 1: Bi-directional relationship between *Olmstead* population and chronic homelessness population.



Individuals in either or both population groups share similar needs:

- They want and have a right to live with dignity in community settings that offer them privacy, meaningful choices among housing and services options, and opportunities for social connections with family members and other individuals without disabilities.

- They often have physical and/or mental disabilities that can lead to them being stigmatized or isolated from the broader community. These disabilities may impair their ability to get and keep housing and to live independently in the community without appropriate services and supports that are tailored to their needs.

- They tend to have extremely low incomes. If they live alone and rely on federal disability benefits, such as Supplemental Security Income (SSI), their average annual income is below the federal poverty level, and less than 20% of the national median income for a one-person household. This income is less than the national average monthly rent for a modest one-bedroom apartment, making rental housing unaffordable without assistance.[2]

The availability of both affordable, accessible housing in community settings and community support services are essential to achieving both the goal of ending and preventing homelessness and the goal of community integration, consistent with the requirements established by Title II of the ADA and the *Olmstead* decision. Without affordable housing options and the services and supports that help individuals obtain and keep housing, thousands of Americans are segregated from the community, living in institutional settings or living and dying on the streets and in other places not meant for human habitation.

Shared Values and Goals

Consumers, family members, advocates, states and local government agencies, and their partners in the private sector share common values and goals that guide efforts to meet the ADA community integration mandate and efforts to end chronic homelessness for individuals with disabilities. Some of these shared values and goals include:

- Housing as a foundation for life in the community, not a bed in a hospital, treatment facility, or nursing facility.

- Housing that is integrated in the community and offers privacy, stability, safety, self-determination, and hope—not a tent, or mat on a shelter floor.

- Opportunities to interact with family members, friends, and social contacts that include neighbors who do not have disabilities, and an end to unnecessary segregation and isolation.

- Meaningful choices among available housing options and about how and from whom to receive supportive services.

- Availability of supportive services that are not required as a condition of tenancy that help individuals to maintain housing stability.

[2] Source: http://www.tacinc.org/media/52012/Priced%20Out%20in%202014.pdf. For more information, see http://www.tacinc.org/knowledge-resources/priced-out-findings/

- Access to appropriate health care and behavioral health services to promote wellness and recovery, manage chronic conditions, and reduce disability related functional impairment.

- Reductions in crises and avoidable costs for emergency and institutional care.

- Reductions in stigma and discrimination.

Shared Strategies and Solutions

The strategies and solutions at the center of *Olmstead* compliance and efforts to end chronic homelessness among individuals with disabilities are the same. For example, permanent supportive housing is a cornerstone of *Opening Doors: Federal Strategic Plan to Prevent and End Homelessness*, and local plans and efforts to find solutions to the needs of the most vulnerable and chronically homeless individuals. Permanent supportive housing is also a key component in efforts to provide alternatives to institutionalization for individuals with disabilities. In many states, *Olmstead* has been a catalyst for the expansion of community-based long-term services and supports and permanent supportive housing. Other key strategies to end homelessness and unnecessary institutionalization, and to facilitate community integration for individuals with disabilities, include:

- Engaging landlords and housing providers to participate in the permanent supportive housing program, including addressing potential barriers to accessing housing, such as low incomes, poor credit, rental history, and criminal justice involvement, and ensuring reasonable accommodations necessary to enable individuals with disabilities to access housing.

- Ensuring capacity of service providers to be sensitive to the long-term impact of trauma, institutionalization, isolation, and homelessness, and to build trusting relationships with persons receiving services.

- Developing and implementing individualized plans needed to achieve recovery and integration in the community.

- Providing support during transitions from homelessness or institutionalization, including assistance and flexible start-up funds for security deposits, furniture, and household supplies.

- Ensuring service providers can assertively engage individuals receiving services in participating in services and motivating changes in harmful or risky behaviors, particularly when housing stability is at risk.

- Providing access to health care and behavioral health services and other long-term services and supports individuals need to manage chronic conditions and meet other health and wellness needs.

- Advancing care coordination and integrated, multi-disciplinary models of care for individuals with complex health, behavioral health, and social service needs.

- Creating opportunities for work, income, and meaningful roles in communities through supported employment and other approaches.

- Outreach and engagement involving police and service provider collaboration to link people with supportive housing and avoid their arrest.[3]

[3] https://www.usich.gov/resources/uploads/asset_library/RPT_SoS_March2012.pdf

Olmstead in Action

Olmstead compliance efforts can impact a state or local government's ability to provide housing and services opportunities for chronically homeless individuals. *U.S. v. State of Georgia,* a 2010 settlement agreement, is a notable example where *Olmstead* implementation efforts had a positive effect on ending chronic homelessness by moving away from a long-term institutional system to one that allows individuals with disabilities consumer choice in their community.

The complaint alleged that the state of Georgia was in violation of Title II of the ADA for failing to provide community-based housing and services to individuals with disabilities in, or at risk of entering, institutional settings such as psychiatric hospitals and intermediate care facilities. Georgia entered into a settlement agreement and committed to building a system of services and supports so that persons with developmental disabilities and mental illness would have an opportunity to live in their communities with supports tailored to meet their needs. Provisions agreed to by the state included:

- Specifically including individuals who are at risk of entering institutions in the target population, including individuals who experience chronic homelessness.
- Defining supported housing to include integrated permanent housing with tenancy rights, linked with flexible community-based services that are available, but not mandated as a condition of tenancy.
- Bridge funding for up to 1,800 individuals.
- Housing supports and assistance for 2,000 individuals who are deemed ineligible for any other benefits.
- Making supported housing available to up to 9,000 persons in the target population who may need that support.

In the five years since the agreement, more than 2,500 individuals with disabilities have received permanent supportive housing. Half were homeless at the time of the referral. Georgia's implementation of the agreement was supported in part by a $44 million grant, awarded to the state by the U.S. Department of Health and Human Services' (HHS) Centers for Medicare and Medicaid Services. Additionally, Georgia officials worked with HHS' Substance Abuse and Mental Health Services Administration to develop the state's community mental health infrastructure to carry out the mental health services requirements of the agreement.

Chronic Homelessness Defined

The population of individuals experiencing chronic homelessness is officially defined by the U.S. Department of Housing and Urban Development (HUD), currently in the Continuum of Care Program Interim Rule 24 C.F.R. § 578. In addition, HUD's definition of chronic homelessness explicitly includes individuals who have short stays in institutional settings. The definition states:

A chronically homeless person is:

(1) A ''homeless individual with a disability,'' as defined in section 401(9) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11360(9)), who:

   (i) Lives in a place not meant for human habitation, a safe haven, or in an emergency shelter; and

   (ii) Has been homeless and living as described in paragraph (1)(i) of this definition continuously for at least 12 months or on at least 4 separate occasions in the last 3 years, as long as the combined occasions equal at least 12 months and each break in homelessness separating the occasions included at least 7 consecutive nights of not living as described in paragraph (1)(i). Stays in institutional care facilities for fewer than 90 days will not constitute as a break in homelessness, but rather such stays are included in the 12-month total, as long as the individual was living or residing in a place not meant for human habitation, a safe haven, or an emergency shelter immediately before entering the institutional care facility;

(2) An individual who has been residing in an institutional care facility, including a jail, substance abuse or mental health treatment facility, hospital, or other similar facility, for fewer than 90 days and met all of the criteria in paragraph (1) of this definition, before entering that facility; or

(3) A family with an adult head of household (or if there is no adult in the family, a minor head of household) who meets all of the criteria in paragraph (1) or (2) of this definition, including a family whose composition has fluctuated while the head of household has been homeless.

State and Community Strategies for Aligning Efforts

Communities seeking to align efforts to end chronic homelessness and ensure community integration for individuals with disabilities should develop a local action plan linking individuals with disabilities to permanent housing opportunities, along with the appropriate services and supports necessary to ensure *Olmstead* compliance.

Community action plans should include seven key elements, summarized here and described in more detail below.

1. **Engage in Interagency Efforts and Collaborative Planning:** Action plans should include planning efforts to ensure the right agencies and stakeholders are at the table. Collaborative planning efforts should also involve planning meetings, trainings, and a clear understanding of the strategies and protocols moving forward.

2. **Develop a Plan for Housing and Supports:** Communities should identify the resources needed to fulfill the housing and service needs of individuals with disabilities. Action plans should seek to maximize efficiency and align resources by featuring a broad range of service providers and managers of permanent housing.

3. **Increase Housing Resources and Coordinate Investments:** Action plans should address the need for additional housing resources and targeted strategies for public and private investment needed to create a sufficient supply of affordable housing opportunities.

4. **Design and Implement Services and Supports Using Medicaid and Behavioral Health Resources:** Action plans should examine ways mainstream resources in healthcare can be leveraged to pay for the services and supports that individuals with disabilities might need to retain housing in community settings. There is significant flexibility in defining Medicaid-covered services to pay for house tenancy supports in a range of settings, including an individual's home. States should also look into Medicaid Managed Care Plans to finance a fee-for-service or managed care purchasing arrangement for individuals with disabilities.

5. **Remove Barriers and Streamline Access to Housing and Services through Coordinated Entry Systems:** Action plans should streamline access to housing by providing clear, low-barrier pathways for attaining housing opportunities. They should also provide additional strategies for navigating housing and tenant selection procedures for individuals who want to move out of institutional settings.

6. **Build Community-Based Provider Capacity through Cross-System Training:** Actions plans should include a clear strategy to bolster the competency and capacity of service providers, which is essential in addressing the diverse housing and service needs of individuals with disabilities.

7. **Develop a Shared Understanding of Supportive Housing Quality in an Integrated Setting:** Action plans should define what constitutes high-quality supportive housing and address what resources are needed to implement and sustain such programs. Communities can borrow their definitions from a number of sources, including: (a) DOJ's Statement of *Olmstead* Enforcement, (b) CMS' Home and Community-Based Settings Final Rule, (c) HUD's *Olmstead* Guidance, (d) the *Dimensions of Quality Supportive Housing* Guidebook, and (e) Substance Abuse and Mental Health Services Administration's (SAMHSA) Permanent Supportive Housing Evidence-Based Practices (EBP).

Seven Key Elements in Detail

1. Engage in Interagency Efforts and Collaborative Planning

A key first step in developing an action plan is to bring separate stakeholder groups or processes together in order to identify shared interests, values, and strategies, and to support the development of shared language and knowledge about available resources and promising practices. Collaborative planning can involve convening meetings, training, and planning activities that include representatives of government agencies from housing, behavioral health, Medicaid, and other relevant sectors, as well as providers of housing and services, advocacy organizations, consumers, and family members.

Joint interagency efforts and collaborative planning should seek to:

- Engage and listen to the voices of consumers who can share their personal experiences to help stakeholders, service providers, and policymakers understand the connections between homelessness and institutionalization, and the challenges that individuals with disabilities experience as they seek opportunities to live in the community.

- Use data and consumer input to identify avoidable costs and opportunities for making investments in more cost-effective interventions that can reduce both institutionalization and homelessness for individuals with disabilities.

- Use data and consumer input to inform planning based on the needs and preferences of individuals with disabilities, with a particular focus on individuals who have extremely low incomes and limited social supports, and those who have experienced stigma and exclusion.

- Reference and utilize research literature that demonstrates the cost-effectiveness of supportive housing for individuals with disabilities (especially serious mental illness), whether they are chronically homeless, leaving institutional settings, or at risk of placement in an institution.[4] Propose new investments in some of the targeted programs serving individuals with disabilities.

- Identify opportunities for matching data from multiple systems to create a better understanding of the number of individuals who experience both homelessness and institutionalization over a period of several years and their characteristics, including patterns of service use. Working together, stakeholders should examine available data to answer important questions, such as:

    - How many individuals who are experiencing chronic homelessness are doing so, in part, because the disability-related, behavioral, and crisis services they need are not readily available in their communities?

    - How many individuals were experiencing homelessness at the time they entered institutional settings?

[4] See Mondello M., Gass, A.B., McLaughlin, T. & Shore, N. 2007. Cost of Homelessness: Cost Analysis of Permanent Supportive Housing. State of Maine – Greater Portland; Mares, A.S. & Rosenheck, R.A. 2010. Twelve-month Client Outcomes and Service Use in a Multisite Project for Chronically Homelessness Adults. *The Journal of Behavioral Health Services & Research*, 37(2): 167-83; Massachusetts Housing and Shelter Alliance. 2009. Home & Healthy for Good: A Statewide Housing First Program; New York Department of Health and Mental Hygiene. 2013. New York/New York III Supportive Housing Evaluation. Interim Utilization and Cost Analysis; Perlman, J. & Parvensky, J. 2006. Denver Housing First Collaborative: Cost Benefit Analysis and Program Outcomes Report.

- How many individuals were staying in institutional settings during the days and weeks just before they entered emergency shelters or other homeless assistance programs?

- How many individuals experience both homelessness and institutionalization within a period of one or two years? What are their characteristics?

- For those individuals who experience both homelessness and institutionalization, how many days or months do they remain homeless or in institutional settings? What happens to these individuals during care transitions (e.g., hospital discharge, reentry from jail, etc.) and how often do they return to homelessness, hospitals, or institutional settings within the first 30 to 90 days, instead of transitioning to housing in community settings?

- Articulate shared outcomes by adopting housing strategies that support community integration and reflect a commitment to Housing First[5] for all individuals with disabilities, ensuring that the homelessness crisis response system is oriented to quickly help individuals obtain permanent housing.

- Delineate strategies and incorporate those details into protocols agreed to among stakeholders. A list of shared protocols will help to formalize an ongoing, collaborative response.

2. Develop a Plan for Housing and Supports

It is critically important to map federal, state, and local resources that are needed and available to fulfill the identified housing needs, distinguishing different eligibility for these resources and programs, including:

- Individuals experiencing homelessness, including individuals experiencing chronic homelessness.

- Individuals residing in nursing facilities, psychiatric hospitals, intermediate care facilities, and other types of institutions.

- Individuals living in other segregated settings that have the characteristics of institutions (e.g., large board and care facilities).

- Individuals leaving incarceration and returning to the community.

Planning tools like USICH's Supportive Housing Opportunities Planner[6] can be adapted to include the needs of these broader populations, and help determine the number of supportive housing units needed for these populations, by determining how existing resources can be used to meet this need, how many additional units need to be created, and setting annual goals for creating additional supportive housing opportunities.

3. Increase Housing Resources and Coordinate Investments

Additional housing resources and targeted strategies for public and private investment are needed to create a sufficient supply of affordable housing opportunities to offer meaningful choices for each person or household, based on their needs and preferences.

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[5] https://www.usich.gov/resources/uploads/asset_library/Implementing_Housing_First_in_Permanent_Supportive_Housing.pdf

[6] https://www.usich.gov/tools-for-action/supportive-housing-opportunities-planner-shop-tool

Public Investments

Among key resources that can be used to help individuals pay for housing in neighborhoods and buildings where they choose are programs that provide rental assistance, such as HUD's Housing Choice Vouchers, Continuum of Care Program, and Section 811 Rental Assistance Program. Communities should also identify resources, like low-income housing tax credits and the HOME Investment Partnerships Program, that finance the creation, through new construction or rehabilitation activities, of affordable housing units that are available to individuals with extremely low incomes and individuals with disabilities coming from homelessness and/or institutional settings.

Communities are also encouraged to identify and pursue local policy changes that can increase access to these resources for both populations. For example, states can adopt policies for the allocation of low-income housing tax credits to create incentives or requirements to create housing set-asides for special populations, such as individuals with disabilities or individuals experiencing homelessness. Additionally, public housing agencies can adopt waitlist preferences that prioritize admissions to specific populations for Housing Choice Vouchers, and include these preferences when they adopt their annual administrative plans.

HUD Remedial Preference

Preferences that target individuals with specific disabilities or diagnoses may be authorized in connection with remedial actions undertaken pursuant to Department of Justice enforcement, *Olmstead* related settlements or litigation, and state and local governments' voluntary, documented affirmative *Olmstead* related planning and implementation efforts.

Preferences may be used to target housing assistance and prioritize individuals with disabilities who are chronically homeless, or are transitioning from, or at serious risk of entering, institutions or other segregated settings. Public Housing Agencies can develop a local preference by incorporating it into written policies for their Housing Choice Vouchers and/or Public Housing programs and may open waiting lists for individuals for whom the preference applies.

In general these preferences may not be limited to persons with a specific diagnosis or type of disability. But when authorized as remedial actions, preferences for people with a specific type of disability are permitted. Any preference that targets individuals with specific disabilities must be reviewed and approved by the Office of General Counsel's Office of Fair Housing at HUD. HUD is streamlining the approval process and will continue to work with PHAs and other recipients to complete the approval process expeditiously.[7]

Private Investments

Strategies for increasing housing resources should focus on financing that can leverage and "braid" resources from homelessness and mainstream programs to make investments in housing and community supports, without losing sight of important differences and categorical funding requirements. Communities are encouraged to use flexible funding from states, local governments, and philanthropy to fill gaps and pay for costs that cannot be covered with other more restrictive or targeted sources of funding. Communities should also coordinate the investments from public and private funders to expedite the creation of housing opportunities for individuals with disabilities. Some states and communities have established interagency funding partnerships or funder collaboratives to coordinate investments in permanent supportive housing and other solutions to homelessness. These collaboratives may serve as a forum to explore potential financing strategies that can also achieve goals related to *Olmstead* compliance.

[7] For more information, see the *Statement of the Department of Housing and Urban Development on the Role of Housing in Accomplishing the Goals of Olmstead* at http://portal.hud.gov/hudportal/documents/huddoc?id=OlmsteadGuidnc060413.pdf

4. Design and Implement Services and Supports Using Medicaid and Behavioral Health Resources

Medicaid and other mainstream resources in health care and behavioral health systems can help to pay for the services and supports individuals with disabilities often need to get and keep housing in community settings, and to manage health conditions outside of institutional settings. Many individuals with disabilities who want to leave institutions and those who have experienced chronic homelessness can qualify for Medicaid enrollment and for a variety of Medicaid benefits, including rehabilitation services, targeted case management, home and community-based services, and other benefits that can provide supports for living in the community.

Medicaid Resources

The U.S. Department of Health and Human Services (HHS) provides resources for states, healthcare providers, and other stakeholders that can guide efforts to use Medicaid to promote housing stability for people with disabilities, including people experiencing chronic homelessness. These include:

- Two reports: *A Primer on Using Medicaid for Individuals Experiencing Chronic Homelessness and Tenants of Permanent Supportive Housing*[8], and a companion document, *Medicaid and Permanent Supportive Housing for Chronically Homeless Individuals: Emerging Practices from the Field*[9].

- CMCS Informational Bulletin: *New Housing Resources to Support Olmstead Implementation.*[10]

- A CMS Informational Bulletin issued in June 2015 highlighting opportunities to use Medicaid to pay for housing-related activities and services that expand home and community-based living opportunities for individuals with disabilities. CMS and SAMHSA are working on providing additional guidance regarding Medicaid reimbursement for housing-related activities and services for persons experiencing chronic homelessness.[11]

Designing Medicaid Benefits to Cover Housing-Related Services

A growing number of states are using Medicaid to pay for services and supports that are linked to housing assistance and delivered in a range of settings, including an individual's home or apartment. This includes individualized and flexible services that help to build trusting relationships, respond to consumers' personal goals and preferences, ensure access to health care and behavioral health services in the most appropriate settings, and intervene quickly when help is needed for a person to qualify for housing assistance or to resolve problems that could lead to a loss of housing.

Furthermore, within the framework of federal laws and policies, states have significant flexibility in designing Medicaid benefits. Many of the services that support community living are covered as "optional" Medicaid benefits, meaning that states can choose if and how to provide coverage for these services as part of their Medicaid state plans or waiver programs. Depending on the Medicaid authorities used to establish covered benefits, service definitions can be crafted to include some of the most important supports for community living, including:

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[8] https://aspe.hhs.gov/pdf-report/primer-using-medicaid-people-experiencing-chronic-homelessness-and-tenants-permanent-supportive-housing

[9] https://aspe.hhs.gov/pdf-report/medicaid-and-permanent-supportive-housing-chronically-homeless-individuals-emerging-practices-field

[10] http://medicaid.gov/Federal-Policy-Guidance/Downloads/CIB-06-18-12.pdf

[11] http://www.medicaid.gov/Federal-Policy-Guidance/Federal-Policy-Guidance.html and http://www.medicaid.gov/federal-policy-guidance/downloads/CIB-06-26-2015.pdf

- Conducting a housing assessment to identify a person's preferences related to housing and needs for support.

- Helping a person to qualify for housing assistance and other benefits.

- Providing assistance a person needs to find housing and establish rental agreements.

- Developing a housing support plan based on individualized goals.

- Delivering supports and interventions in a person's home or other community setting, through frequent visits and face-to-face contacts.

- Helping individuals to gain or restore skills and functioning that are needed for living in the community, when skills and functioning have been impaired by a physical or mental disability.

- Providing crisis interventions for individuals who are wrongfully denied shelter, and successfully stabilizing them through emergency shelter and services.

- Teaching and coaching individuals as they learn how to live with and manage their chronic health and behavioral health conditions, how to access appropriate care in community settings, and how to anticipate crises and develop plans to reduce risks and harms during a crisis, including reducing the risk of losing housing and becoming institutionalized.

In designing Medicaid benefits that cover housing-related services, states should align the design of benefits with Fair Housing policy. While states can limit benefits to people with a specific type of disability, federal fair housing laws prohibit housing providers to prioritize applicants based on a specific diagnosis or type of disability.

Long-Term Services and Supports and Other Home and Community-Based Services

The coverage of housing-related and community support services under Medicaid has been most common for the set of Medicaid beneficiaries who are disabled and determined to require long-term services and supports (LTSS), particularly through another set of optional services for states to provide known as Home and Community-Based Services (HCBS).[12] HCBS initially arose as a means of shifting the focus of Medicaid long-term services and support from institutional settings to community-based services. As such, states have historically provided HCBS benefits to people with disabilities exiting or at risk of entering institutional settings. However, as states have become increasingly aware of the intersection between institutionalization and homelessness, some have begun to expand these benefits to people with disabilities who are experiencing homelessness. Moreover, a few states, like Louisiana, have designed HCBS benefits in such a way as to assist both people leaving institutional settings and those exiting homelessness and entering permanent housing.

5. Remove Barriers and Streamline Access to Housing and Services through Coordinated Entry Systems

In many communities, homeless assistance systems (e.g. Continuums of Care) are moving away from uncoordinated, program-by-program approaches to obtaining supportive housing and other homeless assistance towards more streamlined, coordinated, and in some cases, centralized application and referral approaches that

[12] https://aspe.hhs.gov/pdf-report/understanding-medicaid-home-and-community-services-primer-2010-edition

make it easier for people experiencing homelessness to obtain help. These approaches are often referred to as 'coordinated entry systems.'

Communities can and should consider how to combine or coordinate their efforts to streamline access to housing and services for people experiencing homelessness with efforts to provide supportive housing to individuals with disabilities leaving or diverted from entering institutional settings, rather than having two separate and parallel housing and services delivery systems. Moreover, they can proactively ensure that coordinated entry systems reduce barriers to access for people with disabilities, including ensuring that providers make reasonable accommodations[13] for individuals with disabilities who have difficulty navigating the usual housing application and tenant selection procedures and connecting them to civil legal aid to help mitigate denials for housing based on to criminal, credit, and rental histories. As communities plan and improve their coordinated entry systems, they can take several additional steps to avoid this fragmentation, including:

- Encourage housing applicants to designate additional points of contact during the application process, allow service providers to assist in gathering and submitting needed documentation, to receive notifications, and to accompany the applicant to interviews with housing programs and property managers.[14]

- Offer additional time for persons with disabilities to complete the application process, and provide flexibility in scheduling appointments and submitting required documentation.

- Adopt more flexible screening criteria for applicants who may have little or no income, poor credit, no recent landlord references, prior evictions, or a history of involvement in the criminal justice system, particularly if past problems are associated with the symptoms of the person's disability.

- Provide additional supports for housing search, including transportation assistance and help negotiating with landlords.

6. Build Community-Based Provider Capacity Through Cross-System Training

Individuals with significant disabilities or who have experienced chronic homelessness have diverse housing and service needs. In addition to the basic organizational capacity needed to administer and be accountable for public funding and to operate housing and service programs that are consistent with health and safety standards, providers need training and capacity-building support to implement evidence-based and promising practices. Well-prepared providers, who share an understanding of and commitment to implementing effective practices, can better support housing stability and opportunities for community integration for individuals with disabilities who would otherwise experience institutionalization or chronic homelessness.

Action plans should require organizations to implement permanent supportive housing and incorporate evidence-based and promising practices, including:

- Housing and services roles are functionally separate, meaning that the organization or staff members responsible for managing housing and enforcing lease provisions are not the same as the organization or staff members responsible for providing supportive services.

[13] "A public entity shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity." 28 C.F.R. § 35.130(b)(7).
[14] https://www.usich.gov/resources/uploads/asset_library/Final_Key-Strategies-for-Connecting-People-Experiencing-Homelessness.pdf

- Participation in supportive services is voluntary and not required as a condition for a person to get or keep housing.

- Residents have choice and autonomy in their daily lives and can come and go when they choose.

- Housing and services are aligned, and collaborating as appropriate, in the sense that both housing and service providers are working to support housing stability for individuals with disabilities who face significant challenges to life in the community.

- Housing First approaches also encourage the adoption of screening practices that promote acceptance of applicants regardless of their sobriety, completion of treatment, criminal history, or participation in services.

- Residents [and/or caregivers] fully understand their rights and responsibilities as tenants. Residents have protections from eviction and discrimination through rental agreements or leases.

- Supportive services are voluntary, individualized, flexible, and use assertive engagement strategies rather than coercion to ensure that individuals can get the supports they need to be successful tenants and prevent avoidable crises.

- Supportive services include, among others, motivational interviewing, trauma-informed care, peer supports, and the integration of primary care and behavioral health services.

7. Develop a Shared Understanding of Supportive Housing Quality in an Integrated Setting

States and other funders of supportive housing, including local governments and foundations, can play an important role defining supportive housing quality and committing resources needed to implement and sustain high-quality programs. Action plans that develop a consistent set of incentives, rules, and expectations will help to create a shared understanding among housing developers, service providers, consumers, and other stakeholders. Requests for proposals, funding selection criteria, contracts, and program rules can be used to create incentives for housing and service providers to implement high-quality housing and services programs. Furthermore, resources should also be invested in capacity building and training to strengthen program quality consistent with a common framework.

States can develop an overarching definition and set of principles or standards for high-quality, community-based supportive housing that can guide housing created as part of *Olmstead* implementation, as well as housing created to address homelessness. This overarching definition and standards can reduce administrative complexity for state and local government agencies involved in managing the variety of funding sources that go into supportive housing, and streamline implementation for programs that receive funding from multiple sources. To develop this shared definition of housing quality, states can draw upon a number of resources, including:

Statement on Enforcement of the Integration Mandate of Title II of the Americans with Disabilities Act and *Olmstead v. LC*

In 2011, the Department of Justice defined what constitutes an integrated setting when it issued a statement on enforcement of the integration mandate of Title II of the ADA.[15] The relevant text states:

[15] In 2011, DOJ released a statement with a series of questions and answers on the ADA's integration mandate and *Olmstead* enforcement. See http://www.ada.gov/olmstead/q&a_olmstead.htm.

Integrated settings are those that provide individuals with disabilities opportunities to live, work, and receive services in the greater community, like individuals without disabilities. Integrated settings are located in mainstream society; offer access to community activities and opportunities at times, frequencies, and with persons of an individual's choosing; afford individuals choice in their daily life activities; and provide individuals with disabilities the opportunity to interact with non-disabled persons to the fullest extent possible. Evidence-based practices that provide scattered-site housing with supportive services are examples of integrated settings. By contrast, segregated settings often have qualities of an institutional nature. Segregated settings include, but are not limited to: (1) congregate settings populated exclusively or primarily with individuals with disabilities; (2) congregate settings characterized by regimentation in daily activities, lack of privacy or autonomy, policies limiting visitors, or limits on individuals' ability to engage freely in community activities and to manage their own activities of daily living; or (3) settings that provide for daytime activities primarily with other individuals with disabilities.

Center for Medicare & Medicaid Services' Home and Community-Based Services (HCBS) Settings Final Rule

In 2014, CMS established the HCBS final rule, which stipulates how to qualify as a home or community-based setting in order to receive Medicaid coverage under Home and Community-Based Services. The HCBS final rule acknowledges that in order to enhance quality supportive services, it is critical that regulations emphasize meaningful choices in housing and services so that individuals with disabilities have the ability to live with independence and freedom from coercion and restraint.

The HCBS requires that the setting:

- Is integrated in and supports full access to the greater community.
- Is selected by the individual from among setting options.
- Ensures individual rights of privacy, dignity and respect, and freedom from coercion and restraint.
- Optimizes autonomy and independence in making life choices.
- Facilitates choice regarding services and who provides them.

The final rule also includes requirements for provider owned or controlled home and community-based residential settings. These requirements include:

- The individual has a lease or other legally enforceable agreement providing similar protections.
- The individual has privacy in his/her unit including lockable doors, choice of roommate, and freedom to furnish or decorate his unit.
- The individual controls his/her own schedule, including access to food at any time.
- The individual can have visitors at any time.
- The setting is physically accessible.

HUD *Olmstead* Guidance

Similarly to CMS' HCBS Settings Final Rule, HUD provides guidance on supportive housing quality and discusses the importance of choice and self-determination in housing, as well as freedom from rules that restrict activities:

> *Within the context of housing, integrated settings enable individuals with disabilities to live like individuals without disabilities. Integrated settings also enable individuals with disabilities to live independently with individuals without disabilities and without restrictive rules that limit their activities or impede their ability to interact with individuals without disabilities. Examples of integrated settings include scattered-site apartments providing permanent supportive housing, tenant-based rental assistance that enables individuals with disabilities to lease housing in integrated developments, and apartments for individuals with various disabilities scattered throughout public and multifamily housing developments.*

The guidance contrasts integrated settings from segregated settings:

> *By contrast, segregated settings are occupied exclusively or primarily by individuals with disabilities. Segregated settings sometimes have qualities of an institutional nature, including, but not limited to, regimentation in daily activities, lack of privacy or autonomy, policies limiting visitors, limits on individuals' ability to engage freely in community activities and manage their own activities of daily living, or daytime activities primarily with other individuals with disabilities.*

***Dimensions of Quality Supportive Housing* Guidebook**

A framework for defining quality supportive housing can also be informed by a guidebook and a supportive housing quality toolkit that was developed by the CSH, in consultation with tenants, providers, funders, and other stakeholders.[16] As described in the *Dimensions of Quality Supportive Housing* guidebook, all successful supportive housing projects are:

- Tenant-centered: Every aspect of housing focuses on meeting tenants' needs.
- Accessible: Tenants of all backgrounds and abilities enter housing quickly and easily.
- Coordinated: All supportive housing partners work to achieve shared goals.
- Integrated: Housing provides tenants with choices and community connections.
- Sustainable: Housing operates successfully for the long term.

Another way to look at quality is to consider core outcomes that should be achieved by supportive housing. These are described in the CSH Dimensions of Quality:

- Tenants stay housed.
- Tenants improve their physical and mental health.
- Tenants increase their income and employment.
- Tenants are satisfied with the services and housing.

[16] These resources can be found at http://www.csh.org/qualitytoolkit.

- Tenants have social and community connections.

To reinforce expectations related to quality, states can incorporate these outcomes as they create systems for reporting and accountability in programs that invest in supportive housing for individuals with disabilities.

SAMHSA's Permanent Supportive Housing Evidence-Based Practices (EBP) Kit

SAMHSA's Permanent Supportive Housing EBP Kit[17] provides eight booklets outlining how to develop new programs within mental health systems that are grounded in evidence-based practices. SAMHSA recommends that states continuously evaluate their programs by collecting outcome measures to capture how services are provided. An organization or a system of organizations can be measured through the following indicators:

- The housing options that measure the degree of choice offered to tenants.
- The degree to which tenants can choose their living arrangements, particularly regarding shared space.
- The extent to which a functional separation exists between housing management and services staff.
- The amount tenants pay from their income toward their rent, plus basic utilities.
- The extent to which tenants' housing units are occupied solely by individuals with disabilities v. scattered throughout the community. It is ideal to scatter housing units typical of the community, rather than clustering individuals with disabilities.
- The extent to which tenants have full rights of tenancy.
- The degree to which tenants have access to housing with no required demonstration of housing readiness.
- The extent to which tenants have privacy in housing units.
- The range of services offered to tenants and the degree to which tenants have a choice over those services. Also, the degree to which services are consumer driven.
- The degree to which services are available and adequate.

[17] http://store.samhsa.gov/shin/content//SMA10-4510/SMA10-4510-05-EvaluatingYourProgram-PSH.pdf

Conclusion

This dream of "home" – and a life in the community – is one that belongs to all Americans, including individuals with disabilities. It is this dream, and the shared ideal that no American with a disability should be forced to reside in institutional or segregated settings, on the streets or in shelters, that is the ultimate goal of efforts to ensure the right to community integration under the ADA and *Olmstead* and the national effort to end homelessness.

It will not be possible to fulfill the dream of home and a life in the community if individuals with disabilities are moved from institutions, but aren't prevented from falling into homelessness. Nor will we realize the dream if we move individuals out of homelessness, but fail to prevent their placement into institutional and segregated settings. By aligning these efforts, we can work to ensure that individuals with disabilities have a home that facilitates their integration in the community, that provides them with a life of dignity and independence—the American dream.

Useful Resources

Statement of the Department of Justice on Enforcement of the Integration Mandate of Title II of the Americans with Disabilities Act and Olmstead v. L.C.
http://www.ada.gov/olmstead/q&a_olmstead.htm

Information and Technical Assistance on the Americans with Disabilities Act
http://www.ada.gov/olmstead/

Center for Medicare and Medicaid Services, CMCS Informational Bulletin: New Housing Resources to Support Olmstead Implementation
http://medicaid.gov/Federal-Policy-Guidance/Downloads/CIB-06-18-12.pdf

Center for Medicare and Medicaid Services, CMCS Informational Bulletin: Coverage of Housing-Related Activities and Services for Individuals with Disabilities
https://www.medicaid.gov/federal-policy-guidance/downloads/CIB-06-26-2015.pdf

Statement of the Department of Housing and Urban Development on the Role of Housing in Accomplishing the Goals of *Olmstead*
http://portal.hud.gov/hudportal/documents/huddoc?id=OlmsteadGuidnc060413.pdf

Community Integration Center at Technical Assistance Collaborative
http://www.tacinc.org/cictac/
http://www.tacinc.org/media/52012/Priced%20Out%20in%202014.pdf
http://www.tacinc.org/knowledge-resources/priced-out-findings/

Housing Capacity Building Initiative for Community Living
http://www.neweditions.net/housing/index.asp

Dimensions of Quality Supportive Housing
http://www.csh.org/wp-content/uploads/2013/07/CSH_Dimensions_of_Quality_Supportive_Housing_guidebook.pdf

USICH on Constructive Alternatives to Criminalization of Homelessness
https://www.usich.gov/resources/uploads/asset_library/RPT_SoS_March2012.pdf

USICH on Implementing Housing First in Permanent Supportive Housing
http://usich.gov/resources/uploads/asset_library/Implementing_Housing_First_in_Permanent_Supportive_Housing.pdf

Strategies for Connecting People Experiencing Homelessness with Supplemental Security Income and Social Security Disability Insurance Benefits
https://www.usich.gov/resources/uploads/asset_library/Final_Key-Strategies-for-Connecting-People-Experiencing-Homelessness.pdf

SAMHSA Guidance on Evaluating your Permanent Supportive Housing Program
http://store.samhsa.gov/shin/content/SMA10-4510/SMA10-4510-05-EvaluatingYourProgram-PSH.pdf