

The Power and Possibility of PASRR Webinar Series

Webinar Assistance

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For further webinar and PASRR-related assistance, contact Diana Rios (drios@mission-ag.com).

*Please note that you **must** attend the entirety (90 minutes) of this webinar if you wish to receive Continuing Education credits.*



An Overview of Olmstead Planning

Addressing Nursing Facility Placement Issues
in the Process

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The Mandate for Community Integration

- In the landmark *Olmstead v. L.C.* decision (1999), the U.S. Supreme Court held that states have an affirmative obligation to ensure that individuals with disabilities live in the least restrictive, most integrated settings possible.
- The regulations implementing Title II define an integrated setting as one that “enables individuals with disabilities to interact with nondisabled persons to the fullest extent possible.”
- 28 C.F.R. § 35.130(d)
- 28 C.F.R. § Pt. 35, App. A (2010) (addressing § 35.130)

Community Integration Defined

“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.”

Community Integration Defined

“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.”

Implementing Olmstead

- In its decision, the Supreme Court stated that if a state had a, “....**comprehensive, effectively working plan** for placing qualified persons with mental disabilities in less restrictive settings, and a waiting list that moved at a reasonable pace not controlled by the state’s endeavors to keep its institutions fully populated, the reasonable modification standard [of the ADA] would be met.”
- For an *Olmstead* Plan to serve as a reasonable defense against legal action it must include, “...concrete and reliable commitments to expand integrated opportunities....and there must be funding to support the plan.”

Approaches to Olmstead and Community Integration

- Proactive planning and implementation
- Reactive planning and implementation
- Planning with some implementation activity
- Litigation/Settlement Agreements
- No Planning

Critical Areas for System Planning and Implementation

- Role and Focus of Leadership
- Key Relationships To Establish
- Inter-departmental Collaboration and Partnerships
- Assessing Strengths and Risks

Opportunities

- Alignment of Community Integration and LTSS financial rebalancing efforts.
- Build off of existing strengths.
- How does the current system already support the mandate for community integration?
- What Key Relationships Already Exist?
- Cross Agency Collaborations?
- How can Consumers help?

Partnerships

- Medicaid/Managed Care
- SMHA/SSA
- Employment/Labor
- Transportation
- Welfare
- Housing
- Primary care/Health
- NF Industry
- Consumers and Families
- Public Health
- Federal, state, county, local,
- Executive, Judicial, Legislative branches
- Academia
- Corrections/Criminal Justice
- Protection & Advocacy
- Regions

Potential Roles

- Stakeholders
- PASRR Coordinators
- Behavioral Health Council
- Olmstead Advisory Council or sub-committees
- Legislative involvement
- Activities: Data reviews, program model reviews and development; regulation reviews

Boundaries

- State responsibility
- Stakeholder roles
- Providers
- Involve Subject Matter Experts
- Managing expectations

Key Olmstead Plan Ingredients

- Populations
- Data
- Housing
- Employment
- Wellness and Integrated Healthcare
- Transportation
- Supports and Services
- Funding
- Policies, Rules and Regulations
- Outcomes
- Training and Workforce Development, including use of Peer workforce

Population Focus

- Behavioral Health
- Intellectual and Development Disabilities
- Physical Disabilities
- Traumatic Brain Injury
- Co-occurring or multi-occurring disorders
- Age Groups? (e.g. Child/Adolescents; Adults; Older Adults)

Perspective

- Institutional
 - State hospital
 - Nursing Facility
 - Board and Care
 - Incarceration
- At-Risk of Institutionalization
 - Homelessness
 - At home with aging parents
 - Other substandard living conditions
 - Cuts in services

What does your data tell you?

Where are people served?

- How many are hospitalized?
- Nursing Homes?
- Incarcerated?
- Homeless?
- Board and Care?
- Emergency room data?
- Contacts with crisis system?
- Access to community services? (ACT, PSH, Supported Employment)
- Is the level of services enough?

Outcomes

- What outcomes are being tracked?
- Are they the right outcomes to measure?
- How well is the system performing in the area of community integration?
- Benchmarks?

Assessing Risk - Inpatient

- Role of Inpatient (perceived/actual)
- Use of inpatient
- # of people hospitalized who do not meet civil commitment criteria
- # of people hospitalized due to lack of community options
- Emergency Department boarding
- Quality of discharge planning

Assessing Risk - Residential

- Role of Residential; System beliefs
- Where do people live?
 - congregate group homes
 - nursing homes
 - board and care facilities
 - homeless
- Size of residential environments
- Restrictions in group homes

Assessing Risk - Access

- Are community-based services accessible?
- Is there a wait to see a psychiatrist or clinician, or to get into a program?
- Is criteria to access programs too stringent?
- Is length of stay, level of support too lean?

Assessing Risk – Resource Allocation

- % of funds for inpatient vs community services
- % of funds for congregate living vs independent living (housing + services)
- % of funds for facility based day programming vs ACT, Community Supports
- \$ spent on housing in congregate settings

Funding

- How to shift toward priorities
- Reallocation and Reinvestment
- Medicaid
- Housing
- Maximizing state and federal resources
- State funds
- ACA Impact
- Best practices

Policies and Regulations

- Help push change.
- Important to identify changes needed to existing;
- Important to identify new policies and regulations that are needed.
- May address how the system approaches:
 - Wellness and Recovery
 - Hospitals and Nursing Home issues
 - Housing approaches (e.g. Housing First, PSH)
 - Employment

Quality/Outcomes/Evaluation

- The Olmstead Plan should include an approach to identify and measure outcomes, and drive change based on performance and results.
- What are the issues in your system?
- What outcomes should you track?
- Where are people?
- Why do certain things occur in the system?

Training and Workforce Development

- Is there enough workforce?
 - Are certain types of new staff/clinicians needed?
- New skills must be taught.
 - Recovery-based
 - Person Centered Planning
 - Knowledge of best practices/models that support integration

State Experiences

- Community Integration/Olmstead takes resources, new and/or re-allocated
- Leadership
- Working with Governor's office, Budget offices and other State agencies, legislature.
- Prepare Staff
- Prepare Stakeholders
- Anticipate and manage resistance
- Talking about it is not a good defense, nor is a plan that sits on a shelf.
- Permanent Supportive Housing, ACT and Crisis services are core components of plans and Settlement Agreements

Cautions

- Just because it's in the community doesn't mean it's integrated;
- “Choice” may have different meanings;
- A plan to plan is not a plan;
- Budget cuts and bureaucracy do not trump civil rights;
- Beliefs and opinions regarding whether a person is ready for more independent living or what an integrated setting is may conflict with what the Courts decide

Takeaways

- An Olmstead Plan is a system change document.
- Be comprehensive, but realistic. A plan should be actionable and achievable.
- Have short and long term goals.

Takeaways

- Better to have a short, actionable plan than a ZZZ page document that just states the issues and reasons why progress can't be made.
- The Plan should be developed with stakeholder involvement.
- Track and report on progress.

Litigation

New Hampshire

- 2014 Settlement – June 2017
- Persons with serious mental illness
- “In developing the transition plans, the State will make all reasonable efforts to avoid placing individuals into nursing homes or other institutional settings.”
- Services:
 - Crisis (i.e. mobile response, crisis apts)
 - Assertive Community Treatment
 - Supported Housing (i.e. scatter-site; 10%)
 - Community Residences (i.e. up to 4 people).
600+ people

Key Olmstead Litigation – Connecticut

- Litigation filed by P&A and Bazelon on behalf of plaintiffs.
- Target Population: Individuals with mental illness living in Nursing Homes who can live in more integrated settings.
- Informed choice; education activities; timeframes for transition to “community-based settings”

Minnesota

- 2011 Settlement re: individuals with developmental disabilities receiving unnecessary seclusion & restraints
- Development of an Olmstead Plan was a settlement deliverable.
- Olmstead Plan 2013 (revised 2014) addresses Nursing Home issues.

Missouri

- DOJ vs. Maple Lawn Nursing Home
- 2013 Settlement Agreement
- Improving PASRR process
- Pre-admission Diversion
- Transition and Discharge
- In-reach
- Quality Assurance

Texas

- Steward vs Perry
- Interim Agreement 2013
- Re: 4,500 people in NFs with thousands at-risk
- Admissions diversion and discharge interventions

Key Olmstead Litigation - Illinois

- 3 cases (Colbert, Williams, Ligas)
- Colbert – Nursing Home residents who can move to more integrated settings
- Williams – Individuals with mental illness in large IMDs
- Ligas – Developmentally Disabled in ICF-DD's of nine or more, or who are at risk of going into these settings

Key Olmstead Litigation – New Jersey

- Target Population: Individuals with mental illness in state psychiatric hospitals who no longer meet commitment criteria and are awaiting community placement.
- Filed by Protection & Advocacy group
- Serve 1,065 being discharged from state hospitals or who are at risk of hospitalization
- 2010 -2014

Key Olmstead Litigation – Delaware

- DOJ CRIPA investigation into state psychiatric hospital; led to investigation of community system; Settlement Agreement
- Target population is individuals with serious mental illness who are at the highest risk of unnecessary institutionalization
- Significant expansion of community services, housing and other supports
- 2011-2016

Delaware

- “All new housing created under this agreement will be scattered site supported housing, with no more than 20% of the units in any building to be occupied by individuals with a disability known to the State.”
- “All new housing created under this agreement will have no more than two people in a given apartment, with a private bedroom for each person. If two people are living together in an apartment, the individuals must be able to select their own roommates.”

*Excerpted from Delaware DOJ Settlement Agreement

North Carolina

Housing Slots created pursuant to Settlement:

- are permanent housing with Tenancy Rights;
- are scattered site housing, where no more than 20% of the units in any development are occupied by individuals with a disability known to the State, except as set forth below:
 - Up to 250 Housing Slots may be in disability-neutral developments, that have up to 16 units, where more than 20% of the units are occupied by individuals with a disability known to the State
- the priority is for single-occupancy housing

* Excerpted from NC DOJ Settlement Agreement

Networking with NAPP

(National Association of PASRR Professionals)

<http://www.pasrr.org/about.aspx>



- Networking with NAPP is a follow up discussion on the webinar.
- The next Networking with NAPP session is:

Tuesday, September 23rd, 2014
1 PM EST

To register for the session, please contact Betty Ferdinand:
(bferdinand@cii.us.com) or follow this [link](#).

A reminder invite will be sent to all webinar participants.

