

**Building Inclusive Communities
in West Virginia**



**ANNUAL REPORT ON THE
OLMSTEAD PLAN
The Year in Review**



**STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL**

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September 15, 2020

The Honorable Jim Justice
Governor of West Virginia
State Capitol Building
Charleston, WV 25305

Dear Governor Justice:

On behalf of the Olmstead Office, and in accordance with the Olmstead Plan, Building Inclusive Communities: Keeping the Promise, I am pleased to submit to you the Annual Report for State Fiscal Year 2020.

Please contact the Olmstead Office with questions or information requests.

Sincerely,

A handwritten signature in blue ink that reads "Carissa Davis".

Carissa Davis
Olmstead Coordinator

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Olmstead Mission Statement

The mission of the Olmstead Council is to develop and monitor the implementation of a plan to promote equal opportunities for people with disabilities to live, learn, work and participate in the most integrated setting in the community of their choice through West Virginia's compliance with Title II of the Americans with Disabilities Act.

Olmstead Vision Statement

The vision of the Olmstead Council is for all West Virginians with disabilities to live, learn, work and participate in the most integrated setting in the community of their choice.

Guiding Principles

- People with disabilities, regardless of the severity of the disability, can be supported to live in the community and setting of their choice.
- People with disabilities must have choice and control over where and with whom they live.
- People with disabilities must have opportunities to live integrated lives in communities with their neighbors and not be subjected to rules or requirements that are different from those without disabilities. Integration does not just mean physical presence in a neighborhood, but valued and meaningful participation in community services and activities.
- People with disabilities must have access to information, education, and experiences that foster their ability to make informed choices while respecting their dignity of risk.
- People with disabilities must have opportunities to develop valued social roles, meaningful personal relationships, and activities of their choice.
- People with disabilities must have meaningful opportunities for competitive employment.

West Virginia Executive Order

On October 12, 2005, Executive Order 11-05 was signed by West Virginia Governor Joe Manchin, formally approving and directing the implementation of the West Virginia Olmstead Plan: Building Inclusive Communities. Executive Order 11-05 directs:

- The implementation of the West Virginia Olmstead Plan, the cooperation and collaboration between all affected agencies and public entities with the Olmstead Office to assure the implementation of the *Olmstead* decision within the budgetary constraints of the state.
- The submission of an annual report by the Olmstead Office to the Governor on the progress of the implementation of the Olmstead Plan.

West Virginia Olmstead Council Priorities for 2020

Priority 1: *Implement the West Virginia Olmstead Plan to ensure compliance with Title II of the Americans with Disabilities Act (ADA).*

- Revise the West Virginia Olmstead Plan to address federal enforcement guidelines.
- Establish a formal agreement to ensure the cooperation and collaboration between all affected agencies and public entities with the Olmstead Office to implement the Olmstead Plan, as outlined in Executive Order 11-05.
- Include the Olmstead Office and Council in state processes that affect the institutional and/or community-based long-term care system.
- Improve access to home- and community-based services and supports through the passage of the Community-Based Services Act or equivalent legislation.

Priority 2: *Eliminate the institutional bias in West Virginia's long-term care system.*

- Support the continued development and implementation of the Centers for Medicare and Medicaid Services' (CMS) Money Follows the Person (MFP) grant, Take Me Home Transition (TMH) Program.
- Increase access and availability of home- and community-based services while reducing reliance on institutional settings.
- Issue an annual report that identifies institutional bias and recommendations for change.

Priority 3: *Develop and maintain a statewide, comprehensive transition and diversion program.*

- Obtain additional funding to support other transition and diversion programs throughout West Virginia.

Priority 4: *Implement a formal plan to address the major barrier of affordable, accessible and integrated housing options for people with disabilities.*

- Provide state designation of federal HOME funds for tenant-based rental assistance.
- Identify local, state and federal housing resources either under-utilized or un-utilized to address the critical housing gap in West Virginia for people with disabilities.

Priority 5: *Ensure people with disabilities have opportunities for employment, education, transportation and meaningful participation in their community.*

- Reduce reliance on day programs and sheltered workshops.
- Support the development of an "Employment First" Initiative.
- Support people with disabilities to participate meaningfully in their communities and to attain valued social roles.
- Support a collaborative and coordinated approach to assure available, affordable and accessible transportation.

Priority 6: *Ensure children with mental health issues receive services in the most integrated setting appropriate to their needs.*

- Support children with mental health issues with access to a comprehensive array of services that address their physical, emotional, social and educational needs and receipt of individualized services in accordance with the unique needs and potentials of each child.
- Support children with mental health issues to receive services within the least restrictive, most normative environment that is clinically appropriate and assures that the families of children are full participants in all aspects of the planning and delivery of services.

Olmstead Enforcement

The U.S. Department of Justice, Civil Rights Division's Disability Rights Section, enforces Title II and Title III of the ADA, and the Special Litigation Section that

enforces the Civil Rights of Institutionalized Persons Act (CRIPA), have made *Olmstead* enforcement a top priority. Since 2008, a record number of amicus briefs, lawsuits, and intervention into state *Olmstead* cases has been observed.

In addition to stepping up enforcement, investigatory work has significantly changed. In the past, the first questions asked were whether the institutions under investigation were safe and whether conditions of confinement were constitutional. These have become the second questions asked. Now, the first question asked is whether there are individuals in those institutions who could appropriately receive supports in a more integrated setting.

State Example of *Olmstead* Enforcement

The example of *Olmstead* enforcement that follows has taken place in West Virginia and is why we strive for all West Virginians with disabilities to live, learn, work and participate in the most integrated setting in the community of their choice.

In April 2014, the United States Department of Justice (the United States) initiated an investigation in West Virginia regarding mental health services for children. The investigation reviewed West Virginia's service system for children with serious mental health conditions for compliance with title II of the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. § 12101 et seq. and its implementing regulations. On June 1, 2015, the United States notified West Virginia of its conclusion that West Virginia does not comply with Title II of the ADA, due to an insufficient system of services for children with significant mental health conditions, as interpreted in *Olmstead v. L.C. ex rel. Zimring*, 527 U.S. 581 (1999).

On May 14, 2019, West Virginia entered an agreement (the Agreement) with the United States to address the United States' allegations regarding the state's service system for children with serious mental health conditions by West Virginia Department of Health and Human Resources (DHHR). The United States recognized the current reform efforts underway in West Virginia and the Agreement reflects DHHR's commitment to improving West Virginia children's mental health system to ensure that children can receive mental health services in their homes and communities.

Pursuant to the Agreement requirements, West Virginia must develop an Implementation Plan (the Plan) that describes the actions DHHR, in cooperation with the Department of Education (DOE) and the Department of Military Affairs and Public Safety (DMAPS), will take to ensure that programs memorialized in the Agreement are sustainable, statewide, and accessible to children in the target population, as defined in

Section 3. The Plan describes West Virginia's efforts to uphold its obligations by outlining the steps to realize each program listed in the Agreement:

- *West Virginia Wraparound
- *Children's Mobile Crisis Response
- *Therapeutic Foster Family Care
- *Positive Behavioral Support
- *Assertive Community Treatment (ACT)
- *Mental Health Screening Tools and Processes
- *Evaluation, Quality Assurance, and Performance Improvement
- *Outreach and Education to Stakeholders
- *Workforce Development and Provider Capacity¹

West Virginia has engaged the Institute for Innovation & implementation at the University of Maryland, School of Social Work, to serve as the subject matter expert (SME) as outlined in the Agreement. The SME is providing technical assistance in implementing the programs listed in the Agreement and compliance review of the Agreement's term. This review is documented through semi-annual reports prepared by the SME.

In October 2019, West Virginia submitted an implementation plan to ensure that programs listed in the Agreement are sustainable, statewide, accessible to children in the target population. There have been many challenges implementing these programs during the COVID-19 pandemic. Nevertheless, West Virginia continues work tirelessly to ensure that children in West Virginia have access to mental and behavioral health services.

Olmstead on the State Level

The Olmstead Council, through extensive public input, developed 10 goals for West Virginia. Each goal has a series of specific objectives.

- **Informed Choice:** Establish a process to provide comprehensive information and education so people with disabilities can make informed choices.
- **Identification:** Identify every person with a disability impacted by the *Olmstead* decision who resides in a segregated setting.

¹ The Implementation Plan of the Memorandum of Understanding Between the State of West Virginia and the United States Department of Justice

- **Transition:** Transition every person with a disability who has a desire to live and receive supports in the most integrated setting appropriate.
- **Diversion:** Develop and implement effective and comprehensive diversion activities to prevent or divert people from being institutionalized or segregated.
- **Reasonable Pace:** Assure community-based services are provided to people with disabilities at a reasonable pace.
- **Eliminating Institutional Bias:** Provide services and supports to people with disabilities by eliminating the institutional bias in funding and administering long-term care supports.
- **Self-Direction:** Develop self-directed community-based supports and services that ensure people with disabilities have choice and individual control.
- **Rights Protection:** Develop and maintain systems to actively protect the civil rights of people with disabilities.
- **Quality:** Continuously work to strengthen the quality of community-based supports through assuring the effective implementation of the Olmstead Plan, and that supports are accessible, person-centered, available, effective, responsive, safe, and continuously improving.
- **Community-Based Supports:** Develop, enhance, and maintain an array of self-directed community-based supports to meet the needs of all people with disabilities and create alternatives to segregated settings.

DHHR Olmstead Compliance

Money Follows the Person Program

DHHR's Bureau for Medical Services' (BMS) Money Follows the Person program and Olmstead-related activities have similar goals to allow people with disabilities the opportunity to live in integrated community-based settings. This Rebalancing Demonstration Grant helps rebalance the long-term care system by transitioning people from institutions into the community. MFP is just one strategy that is being used to promote opportunities for people to live in integrated community settings. During State Fiscal Year 2020, DHHR's Bureau for Medical Services' Take Me Home West Virginia program received 121 intakes, and 50 individuals were transitioned to a more integrated

setting. During this time, 30 individuals successfully completed 365 days of participation in the community. Since the program began in February 2013, there have been 1,346 intakes, 435 individuals transitioned, with 276 individuals successfully completing 365 days of participation in the community.

A key purpose of the TMH Sustainability Plan, which was approved by CMS in 2015, is to outline how the state will incorporate transition services into its home- and community-based service system once the MFP demonstration program ends. In January 2019, waiver-transitioned services were successfully incorporated into the Aged and Disabled Waiver and Traumatic Brain Injury waiver programs. The Sustainability Plan also provides the state an opportunity to propose reform initiatives to enhance the long-term care service delivery system in West Virginia. Below is a description of Sustainability Plan reform projects:

TELEHEALTH PILOT

- In August 2019, TMH contracted with the West Virginia University (WVU) School of Public Health to implement and evaluate the pilot project that had been developed to evaluate the efficacy of telehealth in the delivery of Medicaid home- and community-based services.
- The pilot targets 30 individuals transitioning from long-term care to the community through Take Me Home and provides an individualized telehealth solution for six months post-transition.
- WVU contracts with Medtronic and GreatCall to provide the telehealth intervention for pilot participants.
- The Enrollment of TMH participants into the pilot began in March 2020 and will continue through February 2021.
- As of June 1st, 10 TMH participants had consented to participate in the pilot. Of these, seven had transitioned home and were receiving telehealth pilot services.

ONLINE CASE MANAGEMENT PILOT

- The development of an online Case Management system for Home & Community-Based Services (HCBS) providers was another initiative included in West Virginia's Sustainability Plan approved by CMS.
- Before making a final determination on whether to implement a statewide online Case Management system, it was decided to first pilot an online system to solicit provider input, foster provider commitment, and ensure a product most responsive to provider needs.
- Training for the pilot providers was held in February 2019 and the pilot was launched in March 2019.

- As many as 11 Aged and Disabled Waiver providers have participated in the pilot.
- It was anticipated that the user experience phase of the project would run through March 2020. However, to allow for the full evaluation of online pilot system enhancements, this phase of the pilot was extended through June 2020.
- A report outlining considerations and recommendations regarding implementation of a statewide online Case Management system will be developed and presented to BMS leadership at the conclusion of the pilot.

NO WRONG DOOR

- WVU CED facilitated regular meetings of stakeholders to review and update the NWD Strategic Plan, organized workgroups to focus on the 4 key elements of an effective NWD system and set priorities and timeframes for specific plan implementation activities. In January 2019, the WVU CED submitted its final report to TMH.
- A second agreement with the WVU CED to further this initiative was finalized in April 2020.
- Per this agreement, CED staff will work with the original partners of the NWD Steering Committee to facilitate implementation of activities targeted for the first year of the Strategic Plan.
- As of June 1, 2020, the WVU CED was in the process of finalizing the selection of a Program Manager to lead this initiative.

HOUSING

- As of July 1, 2019, TMH in collaboration with HCBS staff and the TMH Housing Committee, completed work on a housing resources booklet for transition team members.
- The booklet outlines resources available across the state both in the affordable rental housing market and for modifications to existing single-family participant and family-owned housing.
- The booklet, “Navigating Accessible Community Housing,” has been distributed to all nursing facilities throughout the state and is made available to individuals transitioning from facilities and their families, waiver provider staff, and anyone else involved in the transition process.

- The next phase of this project will be to develop a training module on navigating affordable housing and make it available online for all future facility staff and transition team members.
- Two other resources intended to “bridge the gap” between the housing market and the social services field -- how to be a good rental tenant and resources targeting housing providers – have also been developed and are in the process of being printed for distribution.

Other planned initiatives of the TMH Sustainability Plan include:

- Developing an online housing registry
- Promoting Direct Service Worker Positive Image
- Developing and distributing effective supervisory practice resource materials
- Developing realistic job preview videos
- Developing and distributing an employment toolkit for HCBS members
- Promoting effective person-centered thinking, planning and practice consistent with CMS expectations

REBALANCING and Other Initiatives

States participating in the MFP demonstration can claim an enhanced Federal Medical Assistance Percentage (FMAP) on qualified home- and community-based services provided to individuals who have transitioned home with MFP support. This enhanced match is the state’s rebalancing fund. These funds are intended for use on initiatives which expand and enhance access to home- and community-based services.

Electronic Visit Verification

- The 21st Century Cures Act, which required State Medicaid Agencies to fully implement an Electronic Visit Verification (EVV) solution for personal care services by January 1, 2019, was subsequently extended to January 1, 2020, and for home health services by January 1, 2023.
- BMS TMH contracted with BerryDunn using MFP rebalancing funds after approval from CMS to supply project management, advance planning document assistance, research and requirements development, testing support, provider and member education and outreach assistance, and certification assistance for the EVV project.
- EVV system development and implementation is currently underway.

Independent Case Management Online Certification

- In May 2019, TMH received CMS approval to use MFP rebalancing funds to develop a Conflict Free Case Management Certification process that will serve as a general training for all case managers in the state's four 1915(C) HCBS Waiver programs.
- This certification curriculum will focus on person-centered planning in addition to Individual Program Plan (IPP) planning, ethics, cultural diversity, conflict of interest, conflict resolution, recognizing and reporting abuse, neglect and financial exploitation, positive behavior support, documentation, statewide transition plan, EVV, the Incident Management System, etc.
- There will also be an add-on module that is unique and specific to each program.
- The curriculum will be integrated into the West Virginia Blackboard system which will provide online training, testing, and retention of all certificates.
- Topic 1, which consists of the bulk of the training, has four chapters. Chapter 1, the Federal Laws & Regulations, has been completed. Chapter 2, an Introduction to HCBS Case Management, is in the final edit. Chapter 3, Ethics & Cultural Competence, is approximately 80 percent complete and is being edited and completed at the same time. Chapter 4, the Ecological Model & PCP, will be submitted for editing on or before December 16th.
- Topic 2 will be all West Virginia-specific information and is still in the planning stage.
- Topic 3, Traumatic Brain Injury (TBI) Conflict Free Case Management, is completed.
- Topic 4, Aged & Disabled Waiver (ADW) Conflict Free Case Management, is almost completed.
- Topic 5, Intellectual/Developmental Disabilities Waiver (IDDW) Conflict Free Case Management, is also in the final stages of development.

Incident Management System

- Another project not included in the approved TMH Sustainability Plan, but funded with MFP grant dollars, was the development and ongoing enhancement and maintenance of the Incident Management System (IMS).
- The IMS enables reporting, tracking, and monitoring of incidents in the ADW, IDDW, TBIW and Personal Care programs.
- MFP grant funding to support system enhancements and maintenance is currently budgeted through Calendar Year 2020.

Intellectual and Developmental Disabilities Waiver

At the request of Governor Jim Justice, DHHR conducted a study into the Managed Enrollment List (MEL) for the Intellectual and Developmental Disabilities Waiver (IDDW) program. Governor Justice proposed a budget which was passed during the 2020 Regular Session of the Legislature allowing for the release of 1,068 slots to be eliminated from the MEL. BMS applied to and received approval from CMS to serve the additional persons and all slots were released.

844Help4WV: Behavioral Health Referral and Outreach Call Center

844Help4WV, the state's behavioral health referral and outreach call center, is a statewide 24-hour call center, that continues to provide resources and referral support for those seeking behavioral health services. The Help4WV maintains a live database with service options and is updated daily with residential facilities' bed capacity and additional treatment information. Help4WV works in conjunction with existing on-call or crisis support systems to strengthen ease of navigation and connectivity for callers. Individuals contacting the call center are offered behavioral health education materials, information on available behavioral health services in or near their respective location, as well as referral to the appropriate level of care based on individual needs in coordination with regional and local providers. Between September 9, 2015 and May 25, 2020 there were a total of 45,415 total calls, including 15,650 Access/Navigation Intakes (all of whom were connected to at least one provider during the call), and 29,757 general information-only calls. The most requested information was for assessment and diagnostic and detox/crisis stabilization services. Callers are connected to a provider during the call, and the helpline agent stays on the phone with the caller and the provider until an appointment is scheduled. Follow-up calls are also made to those who give permission.

Peer Support Certification

Peer recovery support services are an evidence-based model of care which consists of a qualified peer recovery support specialist (PRSS) who assists members with their recovery. The experiences of PRSS as consumers of substance use services, can be an important component in promoting and sustaining long-term recovery. A PRSS is a person who has the qualifications, education, and experience established by BMS, and who has received certification in good standing by a certifying body recognized by the BMS. A PRSS is professionally qualified and trained to provide collaborative services to assist members in achieving sustained recovery from the effects of substance abuse disorders, to provide peer support as a self-identified individual successful in the

recovery process with lived experience with substance use disorders, or co-occurring mental health and substance use disorders, and to offer support and assistance in helping others in the recovery and community-integration process.

The PRSS requirements include:

- Self-identify as an individual with life experience of being diagnosed with a serious mental illness or substance use disorder which meets federal definitions;
- Must be well established in their own recovery; currently in recovery for a minimum of two years and not have received SUD treatment for the preceding six months, except for MAT which is considered a part of recovery;
- Have a high school diploma or GED equivalency (not applicable to 16-17-year olds applying to be a PRSS);
- The individual must be employed by either a Comprehensive Behavioral Health Center (CBHC) or Licensed Behavioral Health Center (LBHC);
- Certification as a PRSS;
- PRSS application which includes the Attestation of Recovery Statement and three letters of reference;
- Must be supervised by an individual who has a master's degree and is employed by the same provider;
- Not a family member of the individual receiving the peer support services;
- Continuing education of 30 hours must be completed every two years in the competency domains which must include six hours in ethics;
- Completes 40 contact hours of volunteer work or paid work at an agency or provider prior to Medicaid services being rendered;
- Current CPR/First Aid card;
- Fingerprint-Based Background Check; and
- Only peers under the age of 18 can provide peer recovery support services to other peers under the age of 18. No adult PRSS can provide services to a minor.

Peer support certification is currently available from two nationally affiliated groups in West Virginia, the West Virginia Association of Alcoholism and Drug Abuse Counselors (WVAADAC), and the West Virginia Certification Board for Addiction & Prevention Professionals (CBAPP). As of May 19, 2020, there were 537 PRSS in West Virginia who have been certified by BMS.

The Bureau for Behavioral Health (BBH) and its community partners have provided both staff time and grant funding to help support the 1,400 + people who have completed Recovery Coach Academy training in West Virginia. In addition, aside from ongoing grant funding of established peer supports, through Substance Abuse and Mental Health Services Administration's (SAMHSA) State Opioid Response (SOR) Grant, BBH awarded 14 Peer Recovery Support Service (PRSS) grants during Year

1(2018) and continued through Year 2 (2019). Five additional grants were awarded in Year 2. All 17 grants for providing peer services are expected to be funded in Years 3 (2020) and 4 (2020-2021). SOR funds totaling \$560,000 have been provided to eight Comprehensive Behavioral Health Centers (CBHCs) to place peers in nine of the state's 10 regional jails. These services will continue through the end of Year 4 SOR. Additional SOR-funded peer recovery programs are as follows: PRSS – Youth (1 per region for a total of 6 PRSS) – to be hired in Year 3. Total amount is \$228,000; Family Treatment Courts in 7 locations will include peer support in Years 3 and 4; Quick Response Teams (10) – most of which include peer services; Harm Reduction programs – 6 currently funded; twelve additional programs to be funded in Years 3 and 4 to include PRSS – funding amount \$800,000; and, PRSS in Emergency Departments through the Mosaic Project – current funding is \$1,200,000 for 30 PRSS in 12 hospitals. An additional \$720,000 has been set aside in Years 3 and 4 to place PRSS in hospitals. Year 1 and 2 peer services targeted Opioid Use and services in Years 3 and 4 will expand to include stimulant misuse.

West Virginia 1115 Substance Use Disorder Waiver

As of June 30, 2020, the Bureau for Medical Services has approved 791 Residential Adult Service (RAS) beds in 55 programs and has approved 593 Peer Recovery Support Specialists to provide recovery support services.

West Virginia 1915 Children with Serious Emotional Disorder Waiver

The BMS application for a 1915(C) Home- and Community-Based Services Waiver to CMS for Children with Serious Emotional Disorder (CSEDW) was approved on December 19, 2019. The waiver became active on March 1, 2020, and currently has 21 active members. There are 95 applicants awaiting an eligibility determination. West Virginia has 22 providers across the state that have signed a contract with the managed care organization, Aetna Better Health, to be CSEDW providers and more are being actively recruited.

West Virginia defines the term “Children with Serious Emotional Disorder” as children from ages three up to 21 who currently, or at any time in the past year, have had a diagnosable mental, behavioral, or emotional disorder of sufficient duration, which substantially interferes with or limits the child's role or functioning in family, school and/or community activities.

The CSEDW's primary goal is to support these individuals by helping to keep them with their families, in their home and with a support network while receiving services

to improve their outcomes. This waiver prioritizes children/youth with serious emotional disorder (SED) who are placed in Psychiatric Rehabilitation Treatment Facilities (PRTFs) or other residential treatment providers out-of-state, and those who are in such facilities in state. Medicaid-eligible children with SED who are at risk of residential placement will become the target group after children in placement are prioritized.

To be eligible for this waiver, the child/youth must meet the following:

- medical eligibility;
- financial eligibility (have a Medicaid card);
- be between the ages of three and 21;
- be a resident of West Virginia, and be able to provide proof of residency upon application; and
- have chosen home- and community-based services over services in an institutional setting.

Services offered by the CSEDW Program are:

- case management
- independent living/skills building
- job development
- supported employment, individual
- in-home family therapy
- in-home family support
- respite, in-home and out-of-home
- specialized therapy
- assistive equipment
- community transition
- mobile response
- non-medical transportation
- peer parent support

COVID-19 Pandemic - BMS

During the COVID-19 pandemic BMS submitted an Appendix K to the waiver programs through CMS to allow for telehealth evaluations, telehealth meetings, and for members to “freeze” their services if they had natural supports and did not want workers coming into their homes. It also extended timelines for assessments for eligibility determination and how workers could provide some of their services that are outlined within the waiver application.

West Virginia Olmstead Activities

West Virginia Olmstead Office Sponsored Training

The West Virginia Olmstead Office provided \$1,000 to assist in sponsoring the annual Fair Shake Network Disability Advocacy Day at the Capitol and training. More than 150 people attended Disability Advocacy Day and 24 vendors were present. Ninety-five people attended the training to learn about voting rights, disability rights, bill tracking/legislative website, and WVABLE (a program designed to give people with disabilities more independence and financial security).

Information, Referral and Assistance Program

The West Virginia Olmstead Office provides information, referral and assistance to West Virginians with disabilities and their families concerning Olmstead-related issues. In addition to information and referral, the West Virginia Olmstead Office provides residents with assistance on Olmstead-related complaints or grievances. In State Fiscal Year 2020, the Olmstead Office received more than 200 calls for information, referral and assistance. The biggest barrier to providing assistance is the need for systems change to decrease the institutional bias and make community-based services and supports more readily available and accessible.

Olmstead Transition and Diversion Program

The West Virginia Olmstead Office continues to offer smaller grants through the Olmstead Transition and Diversion Program. This is the only program of its kind in the United States. This program supports people for transition and diversion and focuses on those not otherwise supported by the Take Me Home, West Virginia Program. Each participant transitioning to the community is eligible to receive up to \$2,500 to pay for reasonable and necessary one-time start-up costs that may include security deposits, household furnishings, set up fees and deposit, moving expenses, assistive devices or technology and home access modifications. Each year there is a waiting list once funds are depleted. During 2020 a committee of Olmstead Council members defined “at risk” to better guide the application reviewers of applications to the Olmstead Transition and Diversion Program.

During State Fiscal Year 2020, the program supported 116 people through the transition and diversion process. Six individuals transitioned from facilities into the community. The average funding allocated per participant was \$1,325.15. The Olmstead Transition and Diversion Program has the potential to save the Medicaid program money each time

it transitions or diverts someone from institutional care. Of the 116 people assisted in this fiscal year, 23 received Medicaid only, 48 received Medicare only, and 42 received both Medicaid and Medicare. Three people assisted did not receive Medicaid or Medicare.

Month	# of Applications Approved	Funding Allocated	Average Cost Per Person
July 2019	0	\$0.00	\$0.00
August 2019	24	\$20,537.70	\$855.74
September 2019	0	\$0.00	\$0.00
October 2019	0	\$0.00	\$0.00
November 2019	0	\$0.00	\$0.00
December 2019	0	\$0.00	\$0.00
January 2020	1	\$225.00	\$225.00
February 2020	23	\$47,272.21	\$2,055.31
March 2020	17	\$24,782.24	\$1,457.77
April 2020	16	\$16,414.58	\$1,025.91
May 2020	23	\$34,958.71	\$1,519.94
June 2020	12	\$9,527.38	\$793.95
Total served in SFY 2020	116	\$153,717.82	\$1,325.15

Revising and Updating the Olmstead Plan

In response to the increased federal *Olmstead* enforcement and technical assistance, the West Virginia Olmstead Council updated West Virginia’s Olmstead Plan in State Fiscal Year 2020. The opportunity to hold public meetings and focus groups around the state permitted the Council to educate people about the *Olmstead* decision and West Virginia’s Olmstead Plan. The information was used to solicit stakeholder input and feedback for updating the goals, objectives and action steps of West Virginia’s Olmstead Plan.

2020 West Virginia Legislative Session

Several bills passed during the 2020 Regular Session of the West Virginia Legislature that may impact people with disabilities and the *Olmstead* decision goal of having people with disabilities live in the most integrated setting.

SB 94 -- Providing persons with physical disabilities ability to vote by electronic

absentee ballot

SB 150 -- Budget Bill – includes funding to clear the IDD Waiver wait list

SB 291 -- Requiring PEIA and health insurance providers provide mental health parity

SB 647 -- Permitting physician's assistants and advanced practice registered nurses issue do-not-resuscitate orders

SB 740 -- Clarifying authorized users of Ron Yost Personal Assistance Services Fund

SB 664 -- Adding physician's assistant to list of medical professionals capable of determining if individual lacks capacity

HB 4009 -- Relating to the process for involuntary hospitalization

HB 4108 -- Relating generally to certificates of need for health care services

HB 4362 -- Relating to penalties for neglect, emotional abuse or death caused by a caregiver

HB 4434 -- West Virginia health care workforce sustainability study

HB 4504 -- Relating to renewal application requirements for individuals with permanent disabilities

HB 4557 – Relating to centers and institutions that provide care and treatment of mentally ill or intellectually disabled individuals

HB 4620 – Redefining the definition of “recovery residence”

[West Virginia Barriers Identified by the Olmstead Council](#)

Just as there are successes, the Olmstead Council has identified barriers that impede or prohibit individuals from accessing supports and services that are necessary to maintain their presence in the community. It is important to note that this is not an all-inclusive list of barriers.

- The Aged and Disabled Waiver and Traumatic Brain Injury Waiver do not provide skilled nursing services.

- **Medicaid Long-Term Care Budget:** A greater percentage of the overall Medicaid long-term care budget is spent for institutional care when compared to community-based supports.
- **Workforce:** There is a lack of an available, responsive, and competent workforce to provide direct services to enable people with disabilities to remain or return to their home and community.
- **Waiver Waiting Lists:** The Managed Enrollment List (MEL) is a waitlist for services until a funded slot becomes available through a waiver program. There are various services available for waiver eligible applicants placed on a MEL depending on for which they had applied: IDW, ADW, or TBIW. Some of those services are State Plan funded and not part of Medicaid, (State Plan Personal Care Services program is part of Medicaid) some are services through other bureaus, and some are programs offered through other agencies if the person meets the eligibility criteria.
- **Housing:** There is a lack of safe and affordable, accessible, and available housing for people with disabilities.
- **24/7 Care:** The Aged and Disabled and Traumatic Brain Injury Waivers are marketed as the alternative to nursing facility care if the participant chooses to live in the home and community. However, they do not provide services 24/7. Even if a participant is receiving the maximum level of care and also receiving services through the State Plan Personal Care Services Program, they will not receive 24/7 services.
- **Medicaid Personal Care:** Due to the restrictive eligibility criteria, these services are not available to all recipients of the Aged and Disabled Waiver Program.
- **Informed Choice:** Adequate education on home- and community-based service and support options is not required to be provided prior to institutional placement, or regularly thereafter.
- **Incentives to Provide Institutional Care:** The cost-based reimbursement methodology incentivizes institutional care.

Until we resolve these barriers, and any identified in the future, we have work to be done.

West Virginia Olmstead Office

Carissa Davis has been West Virginia's Olmstead Coordinator since June 2019. Ms. Davis has been an advocate for people with disabilities for 16 years. She is a former employee and member of the West Virginia Statewide Independent Living Council and Take Me Home, West Virginia – A Money Follows the Person Initiative. She holds bachelor's and master's degrees from West Virginia University.

The Olmstead Office is in the West Virginia Department of Health and Human Resources (DHHR), Office of the Inspector General.

Olmstead Council

The West Virginia Olmstead Council was established in 2003 to advise and assist the Olmstead Coordinator to develop, implement, and monitor West Virginia's Olmstead activities. The mission of the council is to develop and monitor the implementation of a plan to promote equal opportunities for people with disabilities to live, learn, work and participate in the most integrated setting in the community of their choice through West Virginia's compliance with Title II of the ADA. The council has the following responsibilities as outlined in the Olmstead Plan:

- Advise the Coordinator on fulfilling the position's responsibilities and duties.
- Review the activities of the Coordinator, with a focus on systemic issues and barriers.
- Provide recommendations for improving the long-term care system.
- Issue position papers for the identification and resolution of systemic issues.
- Monitor, revise, and update the Olmstead Plan and any subsequent work plans.

West Virginia Olmstead Council Membership

The Olmstead Council is comprised of no more than 35 persons from the following: eight people with disabilities and/or immediate family members; 10 advocacy or disability organization representatives; eight providers of home- and community-based services and/or supports; seven state agency representatives; and two optional, at-large members.

Elliott Birckhead
Sally Blackburn
Angela Breeden

DHHR's Bureau for Behavioral Health
Aging and Disability Resource Network
Member and/or immediate family member with a disability

Marcus Canaday	DHHR's Bureau for Medical Services Money Follows the Person Program
Renee Chapman	Member with a disability and/or immediate family member
Lesley Cottrell	WVU Center for Excellence in Disabilities
Ardella Cottrill	WV Behavioral Health Planning Council
Heather Cummings	Bureau for Children and Families
Mark Drennan	Behavioral health provider
Joyce Floyd	Member and/or immediate family member with a disability
Liz Ford	People First of WV
Mark Fordyce	Panhandle Support Services, Traumatic Brain Injury Waiver provider
Laura Friend	Home health provider
Nancy Fry	Legal Aid of WV - Behavioral Health Advocacy Project
Lynsay Frye	Member and/or immediate family member with a disability
Susan Given	Disability Rights of West Virginia
Roy Herzbach	Legal Aid of WV - Long-Term Care Ombudsman Program
Randy Hill	DHHR's Bureau for Medical Services
Amber Hinkle	Open Doors, Inc., Intellectual and Developmental Disabilities Waiver provider
Janice Holland	AARP
Esther Hupp	Housing
Willis McCollam	Center for Independent Living
Ann McDaniel	WV Statewide Independent Living Council
Suzanne Messenger	West Virginia Bureau of Senior Services
Kim Nuckles	State ADA Coordinator
Cara Price	Member and/or immediate family member with a disability
Paul Smith	Fair Shake Network
Jenni Sutherland	Putnam Aging, Aged and Disabled Waiver provider
Richard Ward	West Virginia Division of Rehabilitation Services
Steve Wiseman	WV Developmental Disabilities Council
Jim Womeldorff	Job Squad, Inc.