

Policy Brief: Olmstead Decision

Olmstead v. L.C. was a 1999 Supreme Court decision that disallowed the segregation of people with disabilities. Undue institutionalization of people with disabilities qualifies as discrimination. The Supreme Court made this decision based on Title II of the 1990 Americans with Disabilities Act (ADA), which prohibits discrimination of people with disabilities in services funded by state or local governments and describes segregation of people with disabilities as discrimination. Under Title II of the ADA, states are required to provide community-based treatment for people with disabilities when:¹

1. The person's support professionals determine that integrated community living is appropriate,
2. The person wants to live in the community, and
3. The services provided in the community would be reasonably accommodated.

Case background

The United States has historically institutionalized people with disabilities. Institutions were created to care for people with mental health conditions, and intellectual and physical disabilities. Institutions segregated people with disabilities and kept them isolated from the wider community. Physically and mentally abusive conditions were common in institutions.

In the early 1990s, Lois Curtis and Elaine Wilson were voluntarily admitted into the Georgia Regional Hospital for psychiatric treatment. Both women had intellectual disabilities. After receiving their medical treatments, medical health professionals concluded that they could leave the institution and integrate into a community living space. At the time, Georgia Regional Hospital stated it had financial constraints and was unable to place their patients with disabilities into integrated community spaces. Curtis and Wilson had to stay in the hospital, as did other patients who desired to live in community settings. Curtis and Wilson stayed in the hospital for years before being placed into integrated community settings.²

The Atlanta Legal Aid Society filed a lawsuit in 1995 on behalf of Curtis, and later Wilson, soon after the two were told they could not leave the hospital. The defendant was Tommy Olmstead, who was the Commissioner of Georgia's Department of Resources. This case known as Olmstead v. L.C. was brought to the Supreme Court, which decided the case on June 22nd, 1999. The court sided with Curtis and Wilson, and required state and local governments to provide the most integrated settings possible for people with disabilities.²

Progress made towards supporting community living

One of the most important consequences of the Olmstead ruling is the implications for the Medicaid program. The federal Medicaid program requires that states prioritize financing community based care over care in segregated settings. Since the Olmstead Decision in 1999, there has been an increase in Home and Community Based Services (HCBS) funding and a decrease in the number of people with disabilities in institutions.³

Long Term Services and Supports (LTSS), funded by Medicaid, spent 74% of its funding toward institutions and 26% of its funding toward Housing and Community Based Services in 1999, the year of the Olmstead Decision.⁴ In FY 2015, 45% of LTSS funding was put toward institutions and 55% funded HCBS. This change in funding represents the progress made toward funding and implementing more housing and community resources for people with disabilities since the landmark Olmstead Decision.

In 1977, the height of institutionalization for people with disabilities and mental health needs, there were 151,112 people in the United States living in large state-run institutions.⁴ In 2009, that number had dropped to 32,909 people, according to the National Council on Disability.⁵ The definition of institutionalization is ever-changing, some people consider certain community-based housing such as group homes as still being too restrictive. Regardless, there are far fewer people with disabilities in institutions than before the Olmstead Decision.

In recent years, Olmstead cases brought in several states have extended the protections against segregated housing established by the Olmstead case to segregated work environments, or sheltered workshops.⁶ These cases established that people with disabilities have a right to receive employment supports and services in integrated, community settings. These cases require states to provide community based employment supports to people with disabilities rather than offering employment supports in segregated settings.

While progress towards deinstitutionalization post Olmstead is evident, many people with disabilities still experience segregation. Most states still use Medicaid funding to operate residential institutions for people with disabilities.

Shortcomings of Olmstead

According to disability advocates, one problem with the ruling in *Olmstead v. L.C.* is the wording for the third condition stated for eligibility to move into community based care. States must make “reasonable modifications” but need not make “fundamental alterations” to provide integrated living settings. The wording here leaves room for interpretations of what is reasonable and what is fundamental in regard to community living. As a consequence, states can argue that change in services will be so expensive as to constitute a fundamental alteration.

Looking to the future

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Congress should reauthorize the Money Follows the Person (MFP) Demonstration. This program supports prioritizing home and community-based services over institutionally based services. There are 44 states and the District of Columbia participating in MFP currently. Over 75,000 people with disabilities have been able to transition back to their communities because of MFP funding since December 2016, according to Medicaid.gov.⁷ With the reauthorization of this program, providing integrated services will be easier for states because they will be granted funding specifically for HCBS.

Works Cited:

1. *Olmstead v. L.C. ex rel. Zimring*, 527 U.S. 581, 607 (1999); https://www.ada.gov/olmstead/olmstead_about.htm
2. <https://www.olmsteadrights.org/about-olmstead/#Brief%20History%20of%20Olmstead>
3. <http://files.kff.org/attachment/issue-brief-olmsteads-role-in-community-integration-for-people-with-disabilities-under-medicare-15-years-after-the-supreme-courts-olmstead-decision>
4. <https://www.medicare.gov/medicaid/ltss/downloads/reports-and-evaluations/ltsexpendituresffy2015final.pdf>
5. <https://ncd.gov/publications/2012/Sept192012/Institutions>

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