

EDMUND G. BROWN
JR.
GOVERNOR



DIANA S. DOOLEY
SECRETARY

State of California HEALTH AND HUMAN SERVICES AGENCY

November 14, 2012

Senator Tom Harkin
Chairman, Senate Health, Education, Labor and Pensions Committee
428 Senate Dirksen Office Building
Washington, DC 20510

Senator Harkin:

Aging

Alcohol and
Drug Programs

Child Support
Services

Community Services
and Development

Developmental
Services

Emergency Medical
Services Authority

Health Care Services

Managed Health Care

Managed Risk
Medical Insurance Board

Public Health

Rehabilitation

Social Services

State Hospitals

Statewide Health
Planning and
Development

On behalf of Governor Edmund G. Brown, Jr., I am providing the State of California's response to your letter, dated June 22, 2012. In your letter, you requested information on our state's implementation of activities to meet the goals of the United States Supreme Court decision on the Americans with Disabilities Act in *Olmstead v. L.C.* (1999).

Currently, California has reached a rebalancing effort of spending 53.7% of Medicaid and long-term services and supports funding on home and community-based services.¹ California was just one of seven states that invested more Medicaid long-term care funding for home and community-based services than for long-term institutional care based on data from 2008-2009.² Additionally, overall in 2011-12, of the 335,289 individuals (all payer types) that were discharged from nursing homes, 49% were discharged to their homes or independent home settings (i.e., apartment, duplex, single room occupancy).³

This progress on expanding home and community-based services is in part due to the state's strong history of advocacy in the disability and aging communities that created successful models for long-term services and supports in the community. Policy leaders have also been guided by the State's Olmstead Plan and the principles articulated within it since 2003.

Of note, California's rebalancing efforts will be enhanced by our new Coordinated Care Initiative, which aligns fiscal incentives to help move and keep older adults and individuals with disabilities in the community. Specifically, the Coordinated Care Initiative positions Medi-Cal (our state Medicaid program) managed care plans to assume responsibility for integrating Medi-Cal and Medicare funding, as well as integrating medical care, behavioral health care, and long-term services and supports

¹ *Raising Expectations: A State Scorecard on Long-Term Services and Supports for Older Adults, People with Physical Disabilities, and Family Caregivers*, 2011, AARP, The Commonwealth Fund, and The SCAN Foundation.

² Ibid.

³ California Office of Statewide Health Planning and Development.

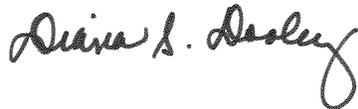
Under the Coordinated Care Initiative, four key long-term services and supports will be integrated as managed care benefits to better align financial incentives for beneficiaries to receive preventative and home and community-based options. Long-term care services that have not previously been part of managed care plan capitated rates include: Community-Based Adult Services, In-Home Supportive Services, Multi-Purpose Senior Services Program and skilled nursing facility care. These long-term services and supports will be integrated as managed care benefits starting with Community-Based Adult Services (formerly Adult Day Health Care) beginning November 1, 2012. The remaining long-term services and supports will follow between March and June 2013. This timing corresponds to California's implementation of the Duals Demonstration, which is a capitated financial alignment model for dual Medicare-Medicaid enrollees. California is currently seeking federal approval from the Centers for Medicare and Medicaid Services for the Duals Demonstration.

To guide future state policy decisions, as Secretary of the California Health and Human Services Agency, I have convened a 35-member Olmstead Advisory Committee, which focuses attention on implementing California's Olmstead Plan and provides recommendations on how our Administration can better enable individuals with disabilities and older adults to live in the community. The input of our stakeholders will continue to help inform state decision making in the area of long-term services and supports.

Appendix A responds to your questions about long-term care in California, our state's strategies to replicate, and our recommendations for federal consideration. Appendix B responds to your questions about our state's Olmstead Plan by providing an update on our progress in implementing California's Olmstead Plan.

Thank you for the opportunity to share the progress California is making in expanding home and community-based services. If your staff has any questions, please contact Kiyomi Burchill, Assistant Secretary, Program and Fiscal Affairs, at kburchil@chhs.ca.gov or (916) 654-3454.

Sincerely,



Diana S. Dooley
Secretary

Cc: Senator Dianne Feinstein
Senator Barbara Boxer

Appendix A

Information and Recommendations on Long-Term Services and Supports

Long-Term Services and Supports in California: A Snapshot

Nursing Home Discharges. On average, from 2008 through 2011, California discharged 151,804 individuals (all payer types) from skilled nursing facilities to their homes or independent home settings (i.e., apartment, duplex, single room occupancy).¹ These discharge figures represent discharges from free-standing skilled nursing facilities and are reported on a calendar year basis. These figures do not include discharges from board and care, group homes, intermediate care facilities, psychiatric hospitals and other community based or institutional settings. The chart below summarizes the discharges to home settings by calendar year, and the average. The annual increase in the number of people transitioning home is especially important to ensure people are diverted from long-stay institutional care.

Year	2008	2009	2010	2011	Average
Discharges	139,138	146,440	157,243	164,394	151,804

State Funding for Long Term Care. For state fiscal year 2012-13 (July 1, 2012- June 30, 2013), California's enacted budget includes the following amounts:

- Nursing Facilities: \$3,879,931,032 (Total funds); \$1,879,725,160 (State funds)
- Intermediate Care Facilities for Individuals with Developmental Disabilities: \$332,959,863 (Total funds); \$162,013,884 (State funds)
- Civil Commitments in State Hospitals: \$1,111,977,014 (Total funds)
- In Their Communities:
 - In-Home Supportive Services: \$5,101,124,625 (Total funds; the Federal Medical Assistance Percentage (FMAP) for California is 50%, except for cases in which the additional 6% FMAP applies pursuant to California's approved Community First Choice Option (CFCO) program)
 - Community-Based Adult Services: \$288,426,000 (Total funds; the FMAP for California is 50%)
 - Multipurpose Senior Services Program: \$40,464,000 (Total funds; the FMAP for California is 50%)

Medicaid Home and Community-Based Waivers. California currently serves more than 110,000 participants in nine 1915(c) home and community-based waivers. The Centers for Medicare and Medicaid Services has consistently approved increases in annual caps on enrollment for these waivers. These nine waivers are:

- Acquired Immune Deficiency Syndrome (AIDS)
- Assisted Living Waiver

¹ California Office of Statewide Health Planning and Development.

- Home and Community-Based Services Waiver for the Developmentally Disabled
- In-Home Operations
- Multipurpose Senior Services Program
- Nursing Facility/Acute Hospital
- Developmentally Disabled/Continuous Nursing Care
- Pediatric Palliative Care
- San Francisco Community Living Support Benefit Waiver

For each of these waivers, the state and counties pay the non-federal share. The Federal Medical Assistance Percentage (FMAP) for California is 50%. Please see the end of this appendix for a description of each of these waivers and their capacity over time.

Strategies to Replicate

As described throughout this letter, California has taken many opportunities to partner with the federal government to expand home and community-based services.

- *Implementation in California of a Range of Home and Community-Based Services Programs:* Specifically, California has secured funding through the Community First Choice Option, the 1915 (i) Medicaid State Plan Option (for Californians with developmental disabilities), the Money Follows the Person Demonstration, Medicaid home and community-based waivers, and finally, the personal care State Plan Option (California's In-Home Supportive Services program). Our strategies on how we have implemented these programs may be helpful to other states or the federal government.
- *Aging and Disability Resource Connection Model:* California's vision for Aging and Disability Resource Connection partnerships goes beyond networks serving single populations such as seniors or individuals with physical disabilities. Instead, the state has embraced the needs of the wider community. This strategy emphasizes meaningful day-to-day collaboration among organizations that coordinate or provide community long-term services and supports to different populations simultaneously. California's initiative has also emphasized the need to help consumers navigate a fragmented and sometimes perplexing array of community long-term services and supports. Through a core partnership between Area Agencies on Aging and Independent Living Centers, and extended long-term services and support provider networks that reflect local consumer cultures and access points, Aging and Disability Resource Connection partners provide objective information, advice, counseling, and assistance. They empower people to make informed decisions about their long-term supports needs and help them access public and private programs.

California Aging and Disability Resource Connection partnerships provide four core services:

- *Enhanced Information and Assistance:* Under the Aging and Disability Resource Connection model, call center staff are cross-trained to utilize a broader array of information and provider resources across the aging and disability provider networks.

- Options Counseling: Options Counseling is one-on-one decision support for individuals exploring their long-term services and supports options. California recently concluded a pilot Options Counseling project with six Aging and Disability Resource Centers and two Money Follows the Person lead organizations.
- Short-Term Service Coordination: Coordination assistance is provided for those who urgently need help with multiple services and programs, generally for 90 days or less and until a longer term plan is in place.
- Transition Services: Aging and Disability Resource Connection partners have become trained and staffed to conduct hospital-to-home and/or nursing facility-to-home transition services.

The overarching goals of ADRC partnerships are to:

- Improve awareness of long-term care options, especially community-based alternatives to inpatient facility care.
- Provide access to information and services on many topics and across programs and service networks.
- Provide assistance through ADRC core services, namely, enhanced Information and Assistance/Referral, Options Counseling, Short-Term Service Coordination, and Transition Services.
- Streamline access to Critical Pathways Providers creating expedited application assistance, peer mentoring, or other ways of eliminating barriers to critical services that enable independent living.

However, the future of these partnerships in California is uncertain. California did not receive adequate funding from the Administration on Community Living in its recent grant application competition, and has no dedicated funding stream moving forward.

Recommendations for the Federal Government

In the decade following the Olmstead decision, economic indicators for California as well as those for most states have been declining and demand for services has been increasing. State budget processes have been tumultuous: between 1999 and 2010 the Legislature was called into Special Session 23 times to address mid-year budget deficits. The California energy crisis of 2003 and housing crash of 2008, and nationally, the collapse of major financial brokerage houses are all part of the context of progress and challenges in re-shaping policies and procedures for delivering long-term care services in line with the Olmstead decision.

California will continue to explore new opportunities to re-design its health care and long-term services and support delivery systems. Integration and flexibility in how Medicare and Medicaid resources can be utilized at state and local levels are essential to enable innovations.

- *Expand Federal Financial Participation for Home and Community-Based Services:* Current Medicaid eligibility determination (e.g., Spousal Impoverishment Provision in the Social Security Act) and federal-state sharing of long-term services and supports favor institutional placement. Families should be supported to care for their

loved ones in the community with Medicaid home and community-based services, instead of getting Medicaid-covered institutional services. A higher federal financial participation for all home and community-based services would enable states to provide more community-based services, rather than receiving the same federal financial participation for institutional services. The Community First Choice Option program is an encouraging step in the right direction, but it should be expanded to include all home and community-based Medicaid services as opposed to being limited to self-directed, personal and attendant services.

- *Increase Federal Incentives for Housing.* To effectively implement Americans with Disabilities Act (ADA) provisions, strong partnerships are needed between health and long-term services and supports providers with affordable housing developers. Federal incentives for housing developers to create housing for low-income seniors and persons with disabilities with requirements to partner with health and long-term services and supports providers would enable more supportive living environments.
- *Remove State Match Requirements for New Federal Assistance.* Given state budget realities, California recommends that any new federal assistance not require state match or state sustainability requirements that would be so potentially financially difficult that states with budget constraints cannot participate.
- *Recognize Large States in Crafting Performance Measures.* California requests that federal demonstration grant opportunities not require implementation performance measures that penalize large states from being selected. For example, requiring that a state make a demonstration program available to at least 50% of the state's population, when all states are eligible for the same amount of funding, effectively eliminates participation of large states and puts them at a disadvantage in competing for federal funding.
- *Provide Funding for Nursing Home Referrals.* Provide funding for community-based organizations that are responding to nursing home referrals pursuant to the requirements of Minimum Data Set 3.0 Section Q.
- *Reward Early Achievers.* California is just one of seven states that invests more Medicaid long-term care funding for community-based services than for long-term institutional care. Allow California and other states that took early action to be compliant with the Olmstead decision to qualify for Medicaid incentive payments when more than 50% of their long term services support expenditures are in community-based settings rather than institutions. For example, because of its rebalancing achievements to date, California is not eligible for the Balancing Incentive Program (BIP), which includes the benefit of an enhanced federal match for services.
- *Aging and Disability Resource Center Funding.* Establish a dedicated funding stream to facilitate expansion of Aging and Disability Resource Centers and the Aging and Disability Resource Centers Options Counseling service. Maintaining California's Aging and Disability Resource Connection partnerships over time without an ongoing revenue

source has been and will continue to be problematic. Given the severe economic climate in California and state budget reductions, organizations are stretched to perform their core functions. Local organizations need startup funding and ongoing technical assistance to support Aging and Disability Resource Connection partnerships. A dedicated funding source for the Options Counseling will facilitate rapid expansion and provide local support for informed choices for individuals and their families about available long-term service and support options.

California's Medicaid 1915(c) Home and Community-Based Services (HCBS) Waivers

Acquired Immune Deficiency Syndrome (AIDS)

Title of waiver	Federal laws or regulations waived	Description of waiver	Population served and number of enrollees	Status of waiver	State plan amendment (SPA) number and date that is applicable to the waiver	Department administering the program
Acquired Immune Deficiency Syndrome (AIDS)	1902(a)(1) 1902(a)(10)(B) 1902(a)(10)(C)(i)(III)	The HCBS waiver for persons living with AIDS and/or symptomatic HIV is an alternative for individuals who would otherwise qualify for institutional care. The waiver provides comprehensive and cost-effective services. Services include, but are not limited to, the following: intensive medical case management (nursing and psychosocial assessments), home delivered meals, attendant care, nutritional counseling, and Medical supplements for infants and children in foster care.	Eligible adults and children who are cognitively and functionally impaired with HIV disease or AIDS. Enrollment: approximately 2,242.	Approved January 1, 2012 through December 31, 2016	Not a State plan service.	California Department of Public Health

Capacity	2007	2008	2009	2010	2011	2012
	3,560	3,720	3,890	4,070	4,250	4,410

Assisted Living Waiver (ALW)

Title of waiver	Federal laws waived	Description of waiver	Population served and number of enrollees	Status of waiver	State plan amendment (SPA) number and date that is applicable to the waiver	Department administering the program
Assisted Living Waiver (ALW)	1902(a)(1) 1902(a)(10)(B) 1902(a)(10)(C)(i)(II) I)	The ALW succeeds the Assisted Living Waiver Pilot Project. The waiver offers assisted living services in two settings: Residential Care Facilities for the Elderly and publically subsidized housing. Qualified participants have full-scope Medi-Cal benefits with zero share of cost and are determined to meet the Skilled Nursing Facility Level of Care, A or B.	Beneficiaries over the age of 21 who would otherwise be in a nursing facility. Enrollment: approximately 1844.	Approved March 1, 2009 through February 28, 2014.	Not a State plan service.	California Department of Health Care Services

Capacity	2007	2008	2009	2010	2011	2012
	N/A	N/A	1,300	1,720	2,260	2,920

Home and Community-Based Services Waiver for the Developmentally Disabled (DD Waiver)

Title of waiver	Federal laws waived	Description of waiver	Population served and number of enrollees	Status of waiver	State plan amendment (SPA) number and date that is applicable to the waiver	Department administering the program
Home and Community-Based Services Waiver for the Developmentally Disabled (DD Waiver)	1902(a)(1) 1902(a)(10)(B) 1902(a)(10)(C)(i)(II I)	Community-based services for individuals with developmental disabilities are provided through a statewide system of 21 private, non-profit corporations known as regional centers. Regional centers provide fixed points of contact in the community for persons with developmental disabilities and their families.	Persons with developmental disabilities. Enrollment: approximately 98,851. The Centers for Medicare and Medicaid Services (CMS) has approved enrollment up to 120,000 by the fifth waiver year.	Approved March 29, 2012 through March 28, 2017.	Not a State plan service.	California Department of Developmental Services

Capacity	2007	2008	2009	2010	2011	2012
	75,000	80,000	85,000	90,000	95,000	105,000

In-Home Operations (IHO) Waiver

Title of waiver	Federal laws waived	Description of waiver	Population served and number of enrollees	Status of waiver	State plan amendment (SPA) number and date that is applicable to the waiver	Department administering the program
In-Home Operations (IHO)	1902(a)(1) 1902(a)(10)(B) 1902(a)(10)(C)(i)(III)	This waiver serves either 1) participants previously enrolled in the Nursing Facility A/B Level of Care (LOC) Waiver who have continuously been enrolled in a DHCS administered HCBS waiver since prior to January 1, 2002, and require direct care services provided primarily by a licensed nurse; or 2) those who have been receiving continuous care in a hospital for 36 months or greater and have physician-ordered direct care services that are greater than those available in the Nursing Facility/Acute Hospital Waiver for the participant's assessed LOC.	Aged population 65 and older, the physically disabled population under age 65, the medically fragile, and the technology dependent. Enrollment: 134.	Approved January 1, 2010 through December 31, 2014.	Not a State plan service.	California Department of Health Care Services

Capacity	2007	2008	2009	2010	2011	2012
	210	210	210	170	162	154

Nursing Facility / Acute Hospital (NF/AH) Waiver

Title of waiver	Federal laws waived	Description of waiver	Population served and number of enrollees	Status of waiver	State plan amendment (SPA) number and date that is applicable to the waiver	Department administering the program
Nursing Facility / Acute Hospital (NF/AH)	1902(a)(1) 1902(a)(10)(B) 1902(a)(10)(C)(i)(II I)	The NF/AH Waiver combined the previous Nursing Facility Level A/B, Nursing Facility Sub-acute, and In-Home Medical Care Waivers into one waiver. This combined waiver offers services in the home to Medi-Cal beneficiaries with a long-term medical condition who, in the absence of this waiver, would otherwise receive care for at least 90 days in an intermediate care facility, a skilled nursing facility, a sub-acute facility, or an acute care hospital.	The NF/AH Waiver serves the aged population 65 and older, the physical disabled population under age 65, the medically fragile, and the technology dependent. Enrollment: 2,220.	Approved January 1, 2012 through December 31, 2016. DHCS has submitted an application to CMS to merge this and the DD-CNC Waiver. DHCS is currently working with CMS.	Not a State plan service.	California Department of Health Care Services

Capacity	2007	2008	2009	2010	2011	2012
	2,392	2,552	2,712	2,872	3,032	3,192

Developmentally Disabled Continuous Nursing Care (DD-CNC) Waiver

Title of waiver	Federal laws waived	Description of waiver	Population served and number of enrollees	Status of waiver	State plan amendment (SPA) number and date that is applicable to the waiver	Department administering the program
Developmentally Disabled Continuous Nursing Care (DD-CNC) Waiver	1902(a)(10)(B) 1902(a)(10)(C)(i)(III) 1902(a)(1)	The DD-CNC succeeds the 1915(b) Freedom of Choice Intermittent Care Facility/ Developmentally Disabled/Continuous Nursing waiver which expired on September 30, 2009. The waiver serves persons with severe developmental disabilities and the need for 24-hour continuous nursing care. The waiver is designed to meet the needs of a unique population of infants, children and adults with both developmental disabilities and a need for continuous skilled nursing. The waiver has its own unique level of care criteria to reflect the specific population which it serves. The criteria are similar to the sub-acute level of care but are inclusive of the developmental disability needs.	The waiver serves persons with severe developmental disabilities and the need for 24-hour continuous nursing care. DD-CNC does not have an age restriction. Capacity: 84. Enrollment: 44.	Approved October 1, 2009 through September 30, 2012. Currently under CMS extension from October 1, 2012 through December 1, 2012. Pending CMS approval, this waiver will be merged with the NF/AH Waiver.	Not a State plan service.	California Department of Health Care Services

Capacity	2007	2008	2009	2010	2011	2012
	N/A	N/A	N/A	72	72	84

Pediatric Palliative Care (PPC) Waiver

Title of waiver	Federal laws waived	Description of waiver	Population served and number of enrollees	Status of waiver	State plan amendment (SPA) number and date that is applicable to the waiver	Department administering the program
Pediatric Palliative Care Waiver (PPC)	1902(a)(1) 1902(a)(10)(B)	This waiver offers children with life limiting conditions a range of home-based hospice-like services while they maintain the option of receiving curative treatment. According to diagnosed need and an approved plan of care, services include: concurrent provision of the hospice-like services and therapeutic state plan services, care coordination, expressive therapies, family training, individual and family caregiver bereavement services, and respite care.	Children with life limiting conditions. Capacity: 1,802. Enrollment: 86.	Approved April 1, 2009 through March 31, 2012. Currently under CMS extension until December 31, 2012.	Not a State plan service.	California Department of Health Care Services

Capacity	2007	2008	2009	2010	2011	2012
	N/A	N/A	N/A	801	1,802	1,802

Multipurpose Senior Services Program (MSSP) Waiver

Title of waiver	Federal laws waived	Description of waiver	Population served and number of enrollees	Status of waiver	State plan amendment (SPA) number and date that is applicable to the waiver	Department administering the program
Multipurpose Senior Services Program (MSSP)	1902(a)(10)(B) 1902(a)(10)(C)(i)(II) I) 1902(a)(1)	Provides home and community-based services in 41 sites statewide to Medi-Cal beneficiaries who are age 65 or over and disabled as an alternative to nursing facility placement. The goal of the program is to arrange for and monitor the use of community services to prevent or delay premature institutional placement of frail clients. MSSP provides comprehensive care management to assist frail elderly persons to remain at home.	Medi-Cal beneficiaries who are 65 or over and disabled. MSSP enrollment: approximately 8,987.	Approved July 1, 2009 through June 30, 2014.	Not a State plan service.	California Department of Aging

Capacity	2007	2008	2009	2010	2011	2012
	16,335	16,335	16,335	16,335	16,335	16,335

San Francisco Community Living Support Benefit Waiver

Title of waiver	Federal laws waived	Description of waiver	Population served and number of enrollees	Status of waiver	State plan amendment (SPA) number and date that is applicable to the waiver	Department administering the program
San Francisco Community Living Support Waiver	1902(a)(1) 1902(a)(10)(B) 1902(a)(10)(C)(i)(III)	<p>Eligible individuals can move into licensed Community Care Facilities (CCFs) and Direct Access to Housing (DAH) sites.</p> <p>Services consist of care coordination, community living support benefits, and behavior assessment and planning in both CCFs and DAHs; and home delivered meals and environmental accessibility adaptations in DAH sites.</p>	<p>Residents of the city and county of San Francisco who are at least 21 years, determined to meet nursing facility level of care, are homeless and at imminent risk of entering a nursing facility, or reside in a nursing facility and want to be discharged to a CCF or DAH.</p> <p>Approved to serve up to 486 participants.</p>	Approved July 1, 2012 through June 30, 2017.	Not a State plan service.	San Francisco Department of Public Health
Capacity	2007	2008	2009	2010	2011	2012
	3,560	3,720	3,890	4,070	4,250	4,410

Appendix B

California Olmstead Plan Update on its Implementation

November 2012

California's Olmstead Plan, released in May 2003, provides a blueprint for improving California's long-term care delivery system to ensure that persons with disabilities and older adults have appropriate access and choice regarding community-based services and long-term care options. In 2005 and 2010, the California Health and Human Services Agency released updates on the state's implementation of the recommended action steps in the plan.

During the development of the Olmstead Plan, many stakeholders and consumers throughout the state dedicated their time, commitment, and ideas to the Olmstead planning process. The planning process included a series of local Olmstead Forums hosted around the state by stakeholders to allow individuals to identify their needs and preferences for living in the community and any best practices. It also included the organization of a workgroup comprised of consumers and stakeholders to identify options and recommendations while also considering needs and preferences identified in the forums. The workgroups held meetings throughout the state.

The California Olmstead Plan is a framework and a compass for the state to ensure that laws, regulations, and program initiatives are consistent with principles of the Olmstead decision. The plan, adopted in 2003, organizes recommended future actions into twelve components. The most recent update on implementation of California's Olmstead Plan, released in 2010, combined these twelve components into four major categories. Similarly, this update is organized into those same four categories:

1. **State Commitment:** Consistency with the Olmstead Decision; Financing Long-Term Services and Supports
2. **Assessment and Transition:** Assessment; Transition from Institutional Settings; Housing; Capacity Needs in the Community
3. **Diversion:** Services that Divert Individuals at Risk of Institutionalization; Consumer Information; Community Awareness; Comprehensive Care Coordination
4. **Data and Research:** Data; Quality Assurance

1. STATE COMMITMENT

Consistency with the Olmstead Decision. The Olmstead Plan includes goals for state policy and financing that is consistent with the Olmstead Decision.

- *Olmstead Advisory Committee:* The State of California convened the Olmstead Advisory Committee in 2005 to help inform policies and practices that impact Californians' abilities to receive services in the least restrictive environment and to avoid unnecessary institutionalization. The Olmstead Advisory Committee developed the Olmstead Policy Filter to advise the Health and Human Services Agency on the extent to which a policy (legislative, regulatory, budgetary) meets the intent of the Olmstead decision. The Olmstead Policy Filter comprises seven criteria

that promote Olmstead implementation. Please see the end of this update for a copy of the Olmstead Policy Filter.

In 2008, a revised Executive Order provided renewed commitment of the administration to the principles of the Americans with Disabilities Act (ADA) and the Olmstead decision. In 2012, Health and Human Services Secretary Diana Dooley expanded the Olmstead Advisory Committee membership to include representation of veterans, members experienced in housing development, and members with expertise in transportation services.

- *Commissioned Report on Long-Term Care.* As part of the State's Real Choice Systems Transformation project, the Health and Human Services Agency commissioned a report to improve understanding of the financial and structural barriers to increasing access to home and community-based services. The final report, *Home and Community-Based Long-Term Care: Recommendations to Improve Access for Californians*, was released on November 12, 2009. The report generated substantial discussion and related activities. Authors Robert Mollica, Ed.D., and Leslie Hendrickson, Ph.D., provided technical assistance to the Health and Human Services Agency, state departments, and legislative staff and served as subject matter experts at several legislative hearings and stakeholder meetings.

Financing Long-Term Services and Supports. The Olmstead Plan includes goals for financing that are consistent with the Olmstead decision. Towards this end, California has pursued every Medicaid program that Congress has approved that provides a tool to implement or expand home and community-based services, as well as pursuing grants for demonstration and research projects. The following is a brief highlight of California's successful grant submittals for waivers and grants from the federal government for developing, strengthening, and expanding our home and community-based services infrastructure and programs.

- *Nursing Facility Transition Screening Tool.* The Department of Health Care Services was selected for the Money Follows the Person demonstration in December 2007, with implementation in 2008. California's Money Follows the Person Rebalancing Demonstration, known as California Community Transitions, makes use of the Nursing Facility Transition Screening Tool. This has enabled the state to transition over 900 individuals residing in nursing facilities into the demonstration since December 2008, and inform many other individuals about their rights to informed choice.
- *Aging and Disability Resource Center Demonstration Grants.* Since 2003, California has received seven federal grants to develop and strengthen Aging and Disability Resource Connection partnerships. To date, partnerships have been established in the following counties: Riverside, Orange, San Francisco, San Diego, Del Norte, Butte, Colusa, Glenn, Tehama, Plumas and Nevada. Northern County Partnership consists of four counties together: Butte, Colusa, Glenn, Tehama, and Plumas. These seven Aging and Disability Resource Connection partnerships cover approximately 28% of California's population.

California has opted to use the modified title of Aging and Disability Resource Connections to reflect the principle of "no wrong door" as opposed to "single entry point" concept that works for smaller states. In California, Aging and Disability Resource Connections have at their core a partnership between an Area Agency on Aging and an Independent Living Center, as well as other organizations depending on specifics of the local community. These core partners are

joined by a network of "extended" partners. Collectively, Aging and Disability Resource Connection partner organizations become recognized as trusted sources of comprehensive information, counseling, and assistance. Aging and Disability Resource Connections empower consumers to consider all options, make informed decisions, and access community long term services and supports to help attain personal goals for independence, regardless of the source of financing (Medi-Cal (California's Medicaid program), Medicare, private insurance, federal or state-funded programs or consumer fees).

- *Administration on Aging Demonstration Grants.* Between 2004-2009, the Department of Aging applied for and received six competitive Administration on Aging demonstration grants to States to implement evidence based support programs to ethnically diverse families caring for a family member with Alzheimer's disease or another form of dementia. Over half of nursing home residents typically have some form of dementia.
- *Waivers for Individuals with Developmental Disabilities.* The Department of Developmental Services secured waiver amendments to provide federal financial participation for community-based services for individuals requiring Intermediate Care Facility level of care. These services play a vital role in transitioning consumers with the most significant care needs from Developmental Centers into community environments were instrumental in closing the Agnews Developmental Center and will similarly help in the closure of the Lanterman Developmental Center. The Department of Developmental Services also secured a Medi-Cal State Plan Amendment to expand federal match funds for long-term care services.
- *In-Home Supportive Services as a Medicaid Program.* The Department of Social Services converted In-Home Supportive Services to a Medicaid program. This increased federal financial participation while preserving the statewide nature of the program. *See additional detail on this program on pages 21-22.*
- *1915(k) Community First Choice Option Program.* California submitted a State Plan Amendment to implement the 1915(k) Community First Choice Option Program (CFCO) on December 1, 2011, which was approved on September 4, 2012. CFCO will enhance Medi-Cal's ability to provide community-based personal assistant services and support to seniors and persons with disabilities to certain enrollees who otherwise would need institutional care. By participating, California will receive a six percent increase in its federal medical assistance percentage for funds spent on these important services.
- *American Recovery and Reinvestment Act (ARRA).* The Department of Rehabilitation targeted American Recovery and Reinvestment Act (ARRA) funds of nearly \$650,000 to independent living organizations to advance Olmstead implementation. Projects focused on developing peer mentoring, public policy education and outreach efforts, and providing transition funds and technical assistance and training for independent living centers to become Medicaid providers or otherwise partner with Medi-Cal to support transitions from institutional settings.
- *New Freedom Transportation Grant.* In 2010, the Department of Aging applied for and received combined funding from the New Freedom Transportation Grant awarded to the Department of Transportation to convene a Mobility Management Workgroup to assist seven local agencies in identifying and securing funding to develop a local mobility management plan focused on improving transportation services to older adults and persons with disabilities.

2. ASSESSMENT AND TRANSITION

Assessment. The Olmstead Plan includes goals to conduct timely assessments for persons in institutions to determine the supports and services needed for them to live successfully in the community. It also includes goals for timely assessments for persons living in the community who are at risk of placement in an institution.

- *Section Q of the Minimum Data Set.* In 2010, the Centers for Medicare and Medicaid Services updated the Minimum Data Set, including Section Q, which addresses a resident's desire to return to the community. The Department of Health Care Services developed local partnerships to take referrals from institutional providers as required in the changes to the Minimum Data Set and is using grant funding to reimburse those organizations for handling referrals. This initial screening connects institutional residents to community-based service organizations that conduct assessments and develop and facilitate transition plans. The department is now working with the Centers for Medicare and Medicaid Services (CMS) on a method to be directly informed of residents indicating their desire to discharge home.

Transition from Institutional Settings. The Olmstead Plan's goals also include services that facilitate transitions of individuals from institutional settings to the most integrated settings appropriate for their needs, based on informed consumer choice. These include housing and other fundamental capacity needs in the community.

- *Developmental Center Closures.* The Department of Developmental Services successfully closed Agnews Developmental Center and the Sierra Vista Community Facility. These closures transitioned most residents into the community, ensuring continuity of services between the centers and the community and specifically enhancing community-based services in the San Francisco Bay Area by developing 60 homes that will remain available to people with developmental disabilities in perpetuity. The Department of Developmental Disabilities is also implementing the closure of Lanterman Developmental Center, which the Legislature approved as part of the 2010-2011 budget.
- *California Community Transitions (CCT).* California Community Transitions (CCT) is California's Money Follows the Person demonstration to transition long-term residents from long-term care facilities to community environments. CCT lead organizations include Independent Living Centers, Home Health Agencies, Area Agencies on Aging and Multipurpose Senior Services Program providers as well as the Department of Developmental Services. Fifteen lead organizations are currently serving potential demonstration participants in 42 counties. Another seven providers are actively pursuing lead organization status. The Department of Developmental Services serves as lead for all California Community Transitions transitions facilitated by regional centers. Through October 2010, lead organizations and the Department of Developmental Services have supported 286 individuals in their transitions with 244 individuals currently in various stages of transition planning.
- *Independent Living Centers.* The State Independent Living Plan identifies transition services as part of its 2010-2013 priorities. Approximately \$150,000 is allocated annually for independent living centers to provide necessary services to individuals they are assisting to transition to the

community, limited to \$4,000 per individual. Individuals served do not need to be on Medi-Cal. These efforts funded by the Rehabilitation Act, Title VIIB, have transitioned hundreds of people with disabilities back to community living.

- *Mental Health Services Act Housing Program.* The Department of Health Care Services and the California Housing Finance Administration jointly administer the Mental Health Services Act Housing Program. This program is funded by revenue from the state Mental Health Services Act (passed by California voters as Proposition 63 in 2004) for the development, acquisition, and rehabilitation of permanent supportive housing for individuals with mental illness and their families, especially homeless individuals with mental illness and their families. Approximately \$400 million in Mental Health Services Act funding has been set aside for this program.

3. DIVERSION

Diversion. The Olmstead Plan includes goals for services that divert individuals at risk of institutionalization.

- *Medi-Cal Home and Community-Based Services Waivers.* As mentioned throughout this letter, our departments have expanded Medicaid Home Community Based Services (HCBS) waivers to the current nine in place for California.
- *Individuals with HIV/AIDS.* The Department of Public Health, Center for Infectious Diseases, Office of AIDS administers a home and community-based services waiver designed to offer people living with HIV/AIDS an alternative to nursing facility care or long-stay hospitalization to retain quality of life within the home and community. The waiver serves approximately 2,450 Medicaid beneficiaries each year. Statewide Office of Aids contractors provide outreach to primary care providers, hospitals, federally qualified health centers, substance abuse recovery homes, HIV testing sites, HIV counseling and prevention-service sites, and residential care during community events.
- *The Multipurpose Senior Services Program.* California's Multipurpose Senior Services Program waiver was renewed in 2009, including the flexibility to hire staff who are registered nurses or public health nurses. Waiver capacity has remained at 16,000 since 2003, though enrollment is closer to 9,000 due to funding constraints.
- *In-Home Supportive Services.* The In-Home Supportive Services program serves more than 440,000 individuals in their homes, which makes it the largest personal care program in the country. This program grew over 100 percent in the number of recipients served over a ten year period (from 208,401 in FY 1998-99 to 429,786 in FY 2008-09). In 2004, California secured a Section 1115 demonstration waiver that captured federal financial participation for In-Home Supportive Services recipients with parent and spouse providers, advance pay, and restaurant meal allowance. In 2005, Congress authorized states to provide Personal Assistance Services under Section 1915(j) of the Deficit Reduction Act. The Department of Health Care Services and the Department of Social Services worked with Center for Medicare and Medicaid Services to amend California's Medicaid State Plan to offer In-Home Supportive Services as a Section 1915(j) State Plan Option in 2009.

Consumer Information and Community Awareness. The Olmstead Plan also focuses on consumer information and community awareness.

- *California Community Choices (Choices).* California Community Choices (the Choices project) was housed at the California Health and Human Services Agency, Office of the Secretary and was fully federally funded. It focused on developing California's long-term care infrastructure to increase access to home and community-based services and to help divert persons with disabilities and older adults from unnecessary institutionalization. Funding supported infrastructure development, including development of a pilot website, CalCareNet, a "one-stop shop" for information about long-term services and supports: <http://calcarenet.ca.gov>. CalCareNet features local services in Orange and Riverside counties, as well as statewide information about licensed care facilities and alcohol and drug programs. The site also provides general education and tips for anyone seeking information about long-term services and supports.
- *The California (Medi-Cal) Working Disabled Program.* The Department of Health Care Services established the 250 Percent Working Disabled Program, effective April 1, 2000. This program allows employed individuals with disabilities to earn up to 250 percent of the federal poverty level in countable income and maintain Medi-Cal eligibility by paying a monthly premium. A Medicaid Infrastructure Grant has supported outreach and education so that people with disabilities receiving critical Medi-Cal long-term services and supports are aware they can work and earn incomes above poverty levels without losing eligibility.

Comprehensive Care Coordination. And finally, the Olmstead Plan recommends comprehensive care coordination.

- *Coordinated Care Initiative.* As mentioned earlier, California is in the process of launching the Coordinated Care Initiative. This will begin with eight demonstration counties: Alameda, Los Angeles, Orange, Riverside, San Bernardino, San Diego, San Mateo, and Santa Clara. The participating health plans are part of the state's existing network of Medi-Cal health plans and have experience providing Medicare managed care. Each underwent a rigorous selection process. Under the Coordinated Care Initiative, the participating health plans will receive a monthly payment to provide beneficiaries access to all covered, medically necessary services. This is called "capitation." These bundled payments create strong financial incentives for the health plans to ensure beneficiaries receive necessary preventative care and home-and community-based options to avoid unnecessary admissions to the hospital or nursing home.
- *Expansion of Managed Care.* In renewing California's Section 1115 Waiver, the Department of Health Care Services expanded the scope to cover more uninsured adults by extending the current county-based Health Care Coverage Initiative to increase support for public hospitals through the Safety Net Care Pool and to mandatorily enroll seniors and persons with disabilities into managed care plans to achieve care coordination, better manage chronic conditions, and improve health outcomes. Mandatory enrollment has been phased in over a 12-month period. Consumer protections are built into the process, requiring health plans to conduct a timely health risk assessment based upon the member's health status and to have accessible specialty care networks.

- *Program of All-Inclusive Care for the Elderly.* Program of All-Inclusive Care for the Elderly (PACE) organizations provide risk-based capitated care for older adults who are frail. The Department of Health Care Services contracts with these organizations to provide all medical services, home and community-based long-term care to Medi-Cal and dual Medi-Cal/Medicare beneficiaries who are at the skilled nursing or intermediate care facility level of care. Currently, the state contracts with five organizations. In 2012-13, six new PACE organizations will become operational.

4. DATA AND RESEARCH

Data and Research. The Olmstead Plan includes goals for quality assurance and the collection and analysis of data.

- *California Medicaid Research Institute.* The California Medicaid Research Institute (CaMRI) is currently analyzing individuals' experiences in avoiding long-term institutional placements through many home and community-based programs California. Funded by The SCAN Foundation and the Department of Health Care Services, this project will conduct a comprehensive review of Medi-Cal home and community-based services. The broad objectives of this project are to establish a robust database of 2005-2008 long-term care and home and community-based services data, analyze the use and impacts of home and community-based services and other long-term care services, and develop predictive modeling techniques that will inform California's home and community-based services policy makers.

The Policy Filter of the Olmstead Advisory Committee

On June 22, 1999, the United States Supreme Court issued a decision in the case of *Olmstead v L.C.*, finding that the unjustified institutional isolation of people with disabilities is a violation of the Americans with Disabilities Act (ADA). The Olmstead Advisory Committee will use the following criteria to advise the California Health and Human Services Agency on the extent to which a policy (legislative, regulatory, budget) meets the intent of the Olmstead decision.

1. Achieves measurable progress towards diverting individuals from institutions and transitioning individuals from less-integrated to more-integrated settings.
2. Fosters and promotes an individual's informed choice in his/her living arrangement.
3. Increases an individual's ability to participate, live and work in the community.
4. Sustains and/or builds upon home and community-based services and supports to enable an individual to choose to live, work and participate in the community.
5. Advances the implementation of the California Olmstead Plan.
6. Provides supports and services to all individuals in a culturally and linguistically competent manner.
7. Conforms to the legal rights of persons with disabilities, as identified in the Americans with Disabilities Act and other state and federal disability civil rights laws.