

Olmstead U.S. Supreme Court Decision of 1999

Jane is quadriplegic. She lives alone in an apartment with the support of 24-hour-per-day home- and community-based services (HCBS) funded by Medicaid to assist with her daily living tasks. With this assistance, Jane is able to volunteer weekly at her local Center for Independent Living and attend community events.

However, Jane was recently notified by her Medicaid managed care company (which administers HCBS in her state) that her services will be cut in 10 days to only 40 hours per week. Jane is desperate because she needs the services to maintain her active lifestyle and does not want to be forced to live in a nursing facility. She is also having difficulty getting out of her apartment safely because the wooden wheelchair ramp at her building is unstable.

Please see page 3 to learn how Jane used knowledge of the Olmstead decision to resolve her issue with receiving services.

What is the Olmstead Decision?

In 1999, the U.S. Supreme Court's decision in *Olmstead v. L.C.* ("Olmstead") gave Americans with disabilities the right to live in a community setting rather than in an institution. Olmstead thus protects the right of people with disabilities to be integrated into their community.

The Olmstead case centered on a decision made by Georgia's Medicaid program to fund psychiatric hospital services for two women but not to provide them with services that supported their living in the community. Both women wanted to live in the community and their doctors believed that community living was appropriate for them. The Supreme Court identified this unjustified segregation of people with disabilities as a violation of Title II of the Americans with Disabilities Act (ADA).

When individuals with disabilities wish to receive home- and community-based services that can be reasonably accommodated, the relevant state or local government must fund these services for them. Reasonably accommodated means that there would not be a fundamental alteration to the program or services that the person receives, and there would not be an undue administrative and financial burden to the agency providing the services.

These decisions are made by considering the resources available (such as personal care attendants) and the needs of others who are receiving similar disability services.

The Supreme Court ruled that unjustified segregation of people with disabilities violates the ADA.

When people with disabilities can be reasonably accommodated, state or local government must fund home- and community-based services that support living in the community.

Courts have also applied the Olmstead ruling to find ADA violations when a state's policy puts people with disabilities at risk of institutionalization.

Why is Olmstead important to me?

Olmstead is important because the Supreme Court recognized that unjustified segregation in institutions is illegal discrimination because it supports beliefs that people with disabilities are incapable or unworthy of participating in community life.

It also recognizes that segregation is harmful and limits everyday life activities, such as family and social relationships, work, education and recreation. Individuals with disabilities can become isolated from others if they live in facilities (for example, a nursing facility) or work in segregated environments (for example, sheltered workshops).

Olmstead ensures that individuals who wish to take part in home- and community-based services and work in the least restrictive settings with their necessary supports will have the opportunity to fully participate. This means public agencies must serve people with disabilities in the most integrated setting appropriate for that individual and must provide services that help avoid the need to seek institutional, rather than community-based, care.

How can I use Olmstead to make my life better?

- **Educate** – Learn about your rights and protections under the ADA, and the opportunities you have to fully participate in your community. Educate others on Olmstead and their responsibility to provide services you require in the least restrictive settings.
- **Advocate** – Connect with a local advocacy organization or Center for Independent Living to advocate for your rights under the ADA. Use Olmstead to ensure that individuals with disabilities have the opportunity to participate as full members in their communities and are not segregated.



Photo: Healthy Community Living, www.healthycommunityliving.com

Resolution to Jane's Story

Jane talked to a staff member at the Center for Independent Living (CIL) in her town about the planned cut in her services and her difficulty safely leaving her apartment in her wheelchair. The staff member helped Jane to learn about her rights to appeal the managed care company's decision based on her right to live in the most integrated setting with appropriate home and community-based services under the Olmstead decision.

Jane filed an appeal, with the assistance of the staff member, to explain that it is medically necessary for her to have 24-hour care. She clearly stated how not having this care would damage her health, create more medical costs and likely institutionalize her. She enlisted the help of family and friends in case her services are disrupted while awaiting the results of her appeal.

The CIL staff member also researched the state Medicaid programs and type of housing Jane lived in to determine whether environmental modifications could be paid for or were required so that Jane could have a functional ramp installed.

Jane was so inspired by what she learned that she joined a local group that advocates for the right for people with disabilities to live in the community.

For some people with disabilities, a personal assistant enables them to live successfully in the community instead of in an institution.



Photo: Center for Disability Rights

Resources to learn more about the Olmstead decision and how to use it:

Information and Technical Assistance on the ADA, Olmstead: Community Integration for Everyone:

Explains what Olmstead covers and how it applies the Americans with Disabilities Act (ADA). Provides real-life scenarios of people who have used Olmstead to make their lives better.

https://www.ada.gov/olmstead/olmstead_about.htm

The Olmstead Supreme Court Decision in a Nutshell:

A brief and easy-to-read list of what Olmstead covers is complemented by a video illustrating the Supreme Court case.

<https://www.olmsteadrights.org/about-olmstead/>

Serving People with Disabilities in the Most Integrated Setting: Community Living and Olmstead:

Provides a look at recent Olmstead success stories.

<https://www.hhs.gov/civil-rights/for-individuals/special-topics/community-living-and-olmstead/index.html>

Centers for Medicare and Medicaid Services Bulletin on Coverage of Housing-Related Activity for Individuals with Disabilities, June 26, 2015:

Provides guidance regarding Medicaid-supported housing-related activities and services, particularly for individuals transitioning out of institutions.

<https://www.medicare.gov/federal-policy-guidance/downloads/cib-06-26-2015.pdf>

NOTE: While Olmstead decision applies to people with all types of disabilities, the RTC/PICL focuses mainly on the community participation and barriers of people who have mobility-related disabilities.

This fact sheet offers general information, not legal advice. The application of the law to individual circumstances can vary. For legal advice, you should consult an attorney.

The RTC/PICL is a partnership of The University of Kansas Research and Training Center on Independent Living and The University of Montana Research and Training Center on Disability in Rural Communities.



Enforcement of Integration Mandate: One responsibility of the federal Department of Health and Human Services Office for Civil Rights is to investigate disability discrimination complaints against a state or local government's health care-related operations, including decisions or policies made by your state Medicaid agency. This website provides information about their complaint process and a link to file a complaint online—as well as referral information about where to file a complaint in other types of cases.

<https://www.hhs.gov/civil-rights/filing-a-complaint/index.html>

ILRU Directory of Centers for Independent Living and Associations – 2017 (Vol. 39): Provides a national directory of Centers for Independent Living in the United States and its territories.

<http://www.ilru.org/projects/cil-net/cil-center-and-association-directory>

National Disability Rights Network: Select your state to find the Protection and Advocacy (P&A) System and Client Assistance Program (CAP) in your state or U.S. territory. These congressionally mandated, legally based disability rights agencies have the authority under federal laws to provide legal representation and other advocacy services for specific issues to all people with disabilities. <http://www.ndrn.org/ndrn-member-agencies.html>

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