

COALITION OF CALIFORNIANS FOR *OLMSTEAD* (COCO)

433 Hegenberger Road, Suite 220, Oakland, CA 94621
Telephone: (510) 430-8033 Fax: (510) 430-8246
Toll Free: (800) 776-5746 TTY/TDD: (800) 649-0154

Access Center of San Diego, Inc.

AIDS Legal Referral Panel

Alameda County Network of Mental Health Clients

Americans Disabled for Attendant Programs Today

Arc California

California Alliance for Inclusive Communities

California Foundation for Independent Living Centers

California Network of Mental Health Clients

Central Coast Center for Independent Living

Communities Actively Living Independent and Free

Community Resources for Independence

Disability Resource Agency for Independent Living

Disability Rights Education and Defense Fund, Inc.

Disability Rights, Enforcement, Education, Services

FREED Center for Independent Living

Independent Living Center of Southern California, Inc.

Independent Living Resource Center Contra Costa &
Solano Counties

Independent Living Resource Center, Inc.

Independent Living Resource Center San Francisco

Independent Living Services of Northern California

IN SPIRIT

Legal Aid Foundation of Los Angeles

Marin Center for Independent Living

Mental Health Advocacy Project

Mental Health Association of Los Angeles County

Multiple Sclerosis – CA Action Network

National Senior Citizens Law Center

The Oaks Group

Organization of Area Boards

People First of California, Inc.

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Public Interest Law Firm

Resources for Independent Living

Self-Advocacy Board of Los Angeles

Self-Advocacy Council, VI

Silicon Valley Independent Living Center

So. California Rehabilitation Services, Inc.

United Autism Alliance

WCIL

World Institute on Disability

Hon. Grantland Johnson, Secretary
Agnes Lee, Deputy Secretary
Department of Health and Human Services
1600 Ninth Street, Room 460
Sacramento, CA 95814

February 27, 2003

RE: California's Olmstead Plan – Draft 2/25/03

Dear Secretary Johnson and Deputy Secretary Lee:

We are writing with COCO's preliminary response to the third draft Olmstead Plan (dated February 25, 2003). This draft is a substantial re-write and, again, we have had insufficient time to do a thorough analysis.

First, we want to commend state staff, particularly Deputy Secretary Lee, on the efforts to make the Work Group process open, collaborative and accessible. We appreciate the enormous amount of work that went into arranging the five meetings, and on supporting consumers to participate in person and on the phone. We thank you for compiling and distributing the notes, forum and survey results (including COCO's survey).

After reacting point by point to the second Draft Plan (dated February 10, 2003), as we did in our preliminary and revised responses, we have stepped back and looked at the process and product with two fundamental questions in mind:

- Does this Plan satisfy the letter and intent of your legislative mandate?
- Does the Plan contain the elements necessary for a comprehensive, effectively working plan that moves at a reasonable pace, which will make real this excerpt from the January 10, 2000 CMS letter:

"A Coalition of Californians working toward community inclusion through the implementation of the *Olmstead* decision"

This decision confirms what this Administration already believes: that no one should have to live in an institution or a nursing home if they can live in the community with the right support.

We believe that the answer to both questions is still “no.” While the third draft is much improved, we still have fundamental concerns.

We have heard Secretary Johnson make three statements at every Work Group meeting:

- 1) Implementing Olmstead is your first priority;
- 2) The current funding crisis should not impede our vision or our plan; and
- 3) A search for perfection will distract us from moving forward.

We are not searching for perfection. We are searching for, and expecting, a plan that meets the criteria set out by the State Legislature – a plan that ensures the timely transition of people institutionalized unnecessarily and the diversion of people at risk of unnecessary institutionalization. The current draft Plan does not meet these criteria. We expect a plan that guarantees the ongoing, integral involvement of consumers and other stakeholders in its implementation. The current draft Plan has no such guarantee.

Most significantly, a plan is not a plan without definitions, data, analyses, objectives, goals, timelines and accountability. This draft, with its continuing lack of specificity, leaves doubt about its scope – that is, its comprehensiveness and its effectiveness. A loosely crafted Olmstead Plan will not meet the needs of settling current lawsuits nor will it protect the state against further legal challenges.

Here is a sample of the kind of structure we were hoping, and expecting, to see in a plan:

I. Principle or Issue or Problem No. 1.

- A. Analysis of issue
- B. Data pertinent to issue
- C. Goal
 1. Strategy 1.
 - a) Activity A
 - i. Who carries out activity
 - ii. Timeline for activity
 - iii. Oversight and monitoring for activity
 - iv. Expected outcome of activity

- b) Fiscal impact
 - i. Cost projection
 - ii. Revenue projection
- c) Regulatory and legislative implications

b) Activity B

...
2. Strategy 2.

...
II. Principle or Issue or Problem No. 2.

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In a state as large, complex and diverse as California, the time and resources allotted to this process were inadequate. Within those restrictions, we recognize that you were able to collect much information from stakeholders. With the last Work Group meeting only five weeks ago in Oakland, however, there has obviously been insufficient opportunity for you and your staff to analyze the information or cost out the recommendations.

We see that data collection and analysis are now among the first activities in the plan. As you know, we've been asking for this for almost three years, so we are happy to see it given a high priority. Without these data, the plan is on shaky ground, like a house without a foundation. We think that the data are the foundation for further planning, but we do not see further planning specified in this draft. A review in 2005 is not sufficient. We recommend that through 2003 and 2004 there be continued planning involving stakeholders. We suggest a separate planning team be established comprised of designated Long-Term Care Council members, consumers, advocates, and other stakeholders. Further planning does not mean implementation cannot begin; it only recognizes that while we have made progress, we have not reached our goal.

We would welcome the opportunity to continue to work together, alongside other stakeholders – most importantly, consumers, to create an Olmstead Plan that meets the Legislature's mandate and federal guidelines.

Sincerely,

Deborah Doctor, for COCO

