

DRAFT 2007 Work Plan for the California Olmstead Advisory Committee (OAC)

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BACKGROUND

The Olmstead Advisory Committee first convened in March of 2005, after being established under Governor Schwarzenegger's leadership in the fall of 2004 as outlined in Executive Order S-18-04. The Executive Order affirms the state's commitment to "provid(ing) services to people with disabilities in the most integrated setting, and to adopt(ing) and adher(ing) to policies and practices that make it possible for persons with disabilities to remain in their communities and avoid unnecessary institutionalization."

Upon convening, the OAC quickly developed both a policy statement (see Appendix A) to help guide the Committee's work and advisory role, and a policy "filter" (see Appendix B) to determine the extent to which a policy (legislative, regulatory, budget) meets the intent of the Olmstead decision.

The OAC policy statement states that its purpose is to provide input to the California Health and Human Services Agency (CHHS) as the lead agency responsible for evaluating, revising, and monitoring the state's implementation of the United States Supreme Court's decision in *Olmstead v. L.C.*, consistent with Title II of the Americans with Disabilities Act. Furthermore, the OAC is responsible for recommending actions to improve California's long-term care system, and to advise on opportunities to fund activities to support persons with disabilities in the community.

California's Olmstead Plan sets out an expansive list of important issues and needs but does not prioritize policies and recommendations, leaving only a list of items without a sense of near term versus long term priorities. The Committee has helped extract priorities that are imbedded within the plan, and has looked beyond the plan to identify and define additional priorities (see "OAC Workgroups" below for the list of top priorities). The OAC has also helped the State work through budget and legislative proposals as they are considered in the legislature. The Committee has

played an important role in providing valuable feedback on various legislative and budget initiatives that impact the state's Olmstead efforts.

The State recognizes the need to continue addressing system problems and transforming the long term care system and the Committee helps identify those issues along with potential solutions. The Committee has achieved many accomplishments to date, has identified several key priorities, and serves as a valuable advisory committee to the Agency and Administration.

OAC WORKGROUPS & PRIORITIES

Two key OAC workgroups - Assessment/Transition Workgroup and Diversion Workgroup – have convened regularly to focus on Olmstead-related issues and priorities. These workgroups identified the policy priorities using California's Olmstead Plan as well as other best practices not included within the Plan. The workgroups' priorities were presented to the Secretary of CHHS as recommendations to move forward in implementing the Olmstead Plan.

The workgroup priorities for each group are listed below. Note that several recommendations identified by each group were the same or very similar, including: re-establishing a Special Circumstances Program, creating incentives for counties to divert and transition individuals from nursing homes, revising waiver program rate structures, and developing transition and diversion programs.

Assessment-Transition Workgroup Policy Priorities:

1. Establish statewide nursing home transition efforts
2. Establish Transition/Diversion One-Time Essential Needs Fund (re-establish Special Circumstances Program)
3. Address barriers to In-Home Supportive Services (IHSS) assessments in nursing homes
4. Revise rate structures for Home and Community-Based Services (HCBS) and develop flexible state budgeting system (rate adjustments built into HCBS program rates)
5. Create incentives for counties to transfer Individuals into the community

Diversion Workgroup Policy Priorities:

1. Expand the Multipurpose Senior Services Program (MSSP) to the under-65 population and reform MSSP rate structure

2. Develop Hospital-to-Home pilot projects through the Department of Aging's Linkages program
3. Re-establish and modify the Special Circumstances Program
4. Establish an Olmstead Outreach and Public Education Campaign
5. Establish HCBS as part of the State Medicaid Plan
6. Create incentives for counties to divert and transition individuals from institutions
7. Caregiver support

Draft OAC WORK PLAN FOR 2007 AND BEYOND

The California Olmstead Advisory Committee has met for two years, identified priorities and recommendations, has played a valuable advisory and guidance role in state initiatives and legislation, and continues to bring more definition to specific recommendations and issues as they relate to Olmstead implementation. In the December 2006 OAC meeting, the group's discussion about how to organize and structure its work going forward coalesced around three key areas for the group:

1. Policy Development
2. Implementation and Oversight
3. Olmstead Education and Outreach

The following draft 2007 Work Plan encompasses these three areas and will serve as a guide for the California Olmstead Advisory Committee's work to inform the Agency's and Administration's efforts to advance the goals of the Olmstead decision.

1. POLICY DEVELOPMENT

The OAC plays an important advisory role in state policy development, whether it is informing development of a new initiative or identifying strategies to improve current efforts. Key issues that the Committee can provide input and counsel on over the next year include cost effectiveness of home and community-based (HCBS) services, Health Care Reform and the potential for long term care rebalancing, Nursing Facility A/H Waiver Reform, and current legislation.

- a. HCBS Cost Effectiveness: The issue of HCBS cost effectiveness for the State continues to be an important but challenging issue. Many argue that HCBS services are cost

effective because they delay or avoid a person's nursing home placement. Others say it is difficult to demonstrate that HCBS services delay institutionalization and believe that services on the whole can be more expensive than nursing home care, especially when considering all the services consumers need to be supported in their homes and communities. Recognizing this issue, the California Community Choices (CCC) grant has established as one of its three goals to conduct a comprehensive study to improve the State's understanding of the financial and structural barriers to increasing access to home and community-based services. **The OAC will develop an issue brief by August 1, 2007, to educate the Administration, CCC project, stakeholders, and general public about the cost effectiveness of HCBS.** This brief may also include isolation versus quality of life and independence as cost factors, and the group will also look at private-public partnership cost and best practice models. This issue brief is intended to pose and answer the critical questions surrounding HCBS cost-effectiveness, promote awareness and understanding, and inform decision-making in the policy arena. This project also ties into priority #3 below: "Olmstead Education and Outreach Initiative."

- b. LTC Rebalancing: OAC members will continue to play an important advisory role on long term care rebalancing, particularly in the context of comprehensive the health care reform efforts. Additionally, the California Community Choices and California Community Transitions (CCT) grants will focus on rebalancing—in particular, identifying and addressing barriers to long term care systems rebalancing and developing a system that promotes community living options. OAC will provide active guidance and feedback for both the CCC and CCT grant projects. One way to accomplish this in a definitive and high profile way is for OAC to bring definition to the term "rebalancing" in California, as federal and state officials, advocates, and others use varying definitions of "rebalancing." **A short-term OAC Workgroup will produce an issue brief by August 1, 2007, that clarifies what is meant by "long-term care rebalancing" and what it means for advancing the goals of Olmstead. This issue brief will help improve understanding of critical terms, issues and implications, so that state officials, the grant project leaders, and**

stakeholders may consider using the same definitions of rebalancing in meetings and as policy decisions are made, such as Health Care Reform. The OAC group working on this project will collaborate, as possible and appropriate, with other organizations or groups that may already be working on this critical issue. This project also ties into priority #3 below: “Olmstead Education and Outreach Initiative.”

- c. Nursing Facility A/H (Acute Hospital) Waiver Reform: The waiver provides HCBS to individuals with disabilities who, but for the provision of such services, would require nursing facility or subacute hospital care. The Department of Health Services held a meeting in November 2006, attended by many OAC members and other interested stakeholders, who offered input into structuring the Waiver program so it most effectively meets consumer needs and provides the opportunity for consumers to remain at home and avoid institutionalization, or transfer from institutions to a setting of choice. The Department is researching waiver-related options based on stakeholder feedback and plans to reconvene stakeholders in 2007 for further input on reform and to report back on the feasibility of various reform options. The OAC will remain instrumental advisors to the Department as the Waiver restructuring discussions continue.

- d. Olmstead-related Housing Issues: One key challenge in Olmstead implementation in California is insufficient affordable and accessible housing. Because housing is an issue that surfaces in every Olmstead conversation, it is important for the OAC to look at this issue more closely. The following will take place in 2007 to examine housing issues:
 - i. Beginning in 2007, a representative from the Department of Housing and Community Development will attend every OAC meeting and provide updates on programs and initiatives that are Olmstead-related, and will ask OAC for feedback, when appropriate, on its activities.
 - ii. OAC will be instrumental partners with California Community Choices and California Community Transitions grants’ state entity task forces, which will research housing issues as they relate to increasing access to home and community-based services. OAC

can help identify housing barriers and recommendations that can help remove these barriers. **The OAC will be engaged via the grants' advisory committees but may also choose to issue its own report and recommendations by year end 2007.**

- e. Legislation: The OAC will continue to play an important advisory function for the Administration on Olmstead-related state legislation. The OAC has requested that all state departments and the Administration use the Olmstead Filter when analyzing bills and recommending action on measures to Department Directors, Agency Secretaries, and the Governor. The OAC, likewise, will advise whether key bills meet the Olmstead filter test. The OAC has been using the committee as a whole to discuss legislation and advise the Secretary of CCHS of legislative measures, but may consider convening an ongoing Legislative Workgroup, to meet as needed, to advise the Secretary of CHHS of legislative measures that most strongly meet the Olmstead filter and move the state forward on Olmstead implementation, and of measures that create barriers to Olmstead implementation.

2. IMPLEMENTATION AND OVERSIGHT

The OAC recognizes that significant policy issues are often raised and address in the context of program implementation. Therefore, the OAC is committed to working with Administration partners to ensure that key programs that provide essential services and supports in the home and community are implemented well, work well, and are improved, as needed. The OAC provides valuable input and feedback to the State on program implementation issues and opportunities in a number of areas. The following outlines the OAC's implementation and oversight plans for 2007:

- a. Designate an OAC liaison for each area (b through h) below. The OAC members will act as liaisons and report back to the OAC at each meeting regarding key policy issues associated with program implementation, concerns about projects or programs under development that merit OAC awareness and feedback, and general updates.

- b. California Community Transitions (Money Follows the Person): The OAC will provide advice and guidance in the development of the operational plan of the California Community Transitions (CCT) five-year demonstration whose goal is to transition up to 2,000 people from institutions to the community. The Department of Health Care Services will develop the operational protocol and systems design in year one (2007) of the grant. OAC members will be engaged in advising the CCT project in 2007 and will provide valuable oversight and guidance as implementation of individual transitions begins. Furthermore, through this grant, the state will identify existing barriers that prevent successful transitions from institutions to the community and make recommendations to remove these barriers. It will also identify and address barriers to long term care systems rebalancing, and develop a system that promotes community living options. OAC will be a critical partner to this project during the tenure of the grant.
- c. California Community Choices (CCC): Several OAC members are active participants in the development and implementation of California Community Choices (Real Choice Long Care Systems Transformation grant) and will regularly report back to the OAC on progress or to ask OAC for input and guidance. Year one (2007) is the development of the operational protocol phase for CCC, with the overall goal to help build the State's long term care system infrastructure and to increase the capacity of the home and community based services system. (See also actions 1 a,b,d above which tie into this project). The OAC will continue to be actively engaged and provide guidance on the three key goals of the five-year grant:
- i. establishing one-stop resource centers in two country/regions
 - ii. enhancing the CalCareNet website to provide up-to-date information on long term care services and supports
 - iii. conducting a comprehensive study to improve the State's understanding of the financial and structural barriers to increasing access to home and community based services
- d. Adult Day Health Care (ADHC) Reform: The OAC will be engaged, as needed, and updated on the various changes the

Adult Day Health Care Program will be undergoing over the next year during implementation of SB 1755 reforms, enacted in 2006.

- e. Mental Health Services Act (Proposition 63): The Mental Health Services Act (MHSA), enacted by voters in 2004, offers a significant opportunity for improvements and reforms in California's mental health system,; OAC members can play a key monitoring and oversight role as it relates to Olmstead implementation. The Department of Mental Health (DMH) is producing draft products and asking for stakeholder input, which is where OAC members can be helpful. DMH will continue to establish requirements for Proposition 63 dollars and will likely complete this process by the end of summer 2007. DMH encourages OAC members to review proposals and determine if they accomplish the vision agreed to, if implementation makes sense, and if these actions will help reduce institutionalization.

- f. Agnews Developmental Center Closure: The foundation of the Agnews Closure Plan is the development of sufficient community capacity to support the transition of Agnews' consumers into the communities that are close to their families. New service and support options are being created that provide meaningful choices for each person and that are designed to provide a stable home and service system that people can count on. The plan is a model for providing services and supports for persons with disabilities to live in the community. The OAC will play a monitoring role as it relates to the transitioning of Agnews' residents into the community due to the closure of Agnews in 2008. OAC will report on the state's progress in creating the transition infrastructure and transitioning consumers, and will raise any concerns to the Secretary of CHHS in an expeditious manner.

- g. Housing/Emergency Shelter (Proposition 1C): The OAC will monitor and provide input to the Secretary of CHHS and the liaison from the Housing and Community Development Department as needed, on opportunities related to Proposition 1C. The OAC, furthermore, will play an active role in 2007 in researching and defining housing challenges in California as

they relate to Olmstead implementation (see “Olmstead-related Housing Issues” item 1d above).

- h. Transportation - Mobility Action Plan Implementation Project:
The OAC will play an important advisory role on transportation in the state and will provide input and oversight over the Mobility Action Plan (MAP) project, including participating in the MAP advisory committee as the project is implemented. The Assistant Secretary for Long Term Care at CHHS is the vice chair of the MAP Advisory Committee.

3. OLMSTEAD EDUCATION AND OUTREACH

The OAC has identified educating the public, legislators, members of the Administration, consumers, providers, and others regarding long term care, the Olmstead decision, and Olmstead implementation as a high priority. The Diversion Workgroup also identified this as a priority for the OAC. In 2007 and beyond, the OAC will make it a priority to organize at least two briefings per year, and will consider using “issue briefs” on various topics to inform constituencies on important issues related to Olmstead implementation.

- a. On March 23, 2007, OAC members participated in a well-attended Legislative Briefing on long term care in the context of the Olmstead decision in Sacramento.
- b. The OAC will discuss organizing another targeted briefing for 2007. Concepts for briefings may include:
 - i. The OAC-prepared issue brief on the cost effectiveness of HCBS. (See #1a above).
 - ii. The OAC-prepared issue brief on long term care rebalancing. (See #1b above).
- c. The Committee will discuss plans for briefings, forums, and issue papers for 2008 and beyond.

4. 2008 & BEYOND OAC WORK PLAN

The OAC will begin developing a Work Plan for 2008 and beyond.

This document serves as a guide and work plan for the California Olmstead Advisory Committee in 2007 as it advises the California Health and Human Services Agency and the Administration on implementation of the

Olmstead decision. It represents the priorities and recommendations of the Committee and may be amended as needed and agreed upon by the Committee.

Policy Statement of the Olmstead Advisory Committee

It is the purpose of the Olmstead Advisory Committee to provide input to the California Health and Human Services Agency as the lead agency responsible for evaluating, revising, and monitoring the state's implementation of the United States Supreme Court's decision in *Olmstead v. L.C.*, consistent with Title II of the Americans with Disabilities Act. It is further the responsibility of the Committee to recommend actions to improve California's long-term care system, and to advise on opportunities to fund activities to support persons with disabilities in the community.

The Olmstead Advisory Committee commits to the following principles in its efforts to advise the state in its implementation of the Olmstead decision.

1. The opportunities to direct one's own affairs, live independently, work towards and attain economic self-sufficiency are essential components to developing self-worth and personal responsibility.
2. The state has a responsibility to protect against the unnecessary institutionalization of all persons with disabilities of all ages, including persons with mental, physical, cognitive or developmental disabilities.
3. Unnecessary institutional placement of persons with disabilities of all ages constitutes a form of discrimination based on disability and adversely affects everyday life activities, family relations, social contacts, work options, economic independence, and cultural enrichment of institutionalized persons. Such institutionalization also deprives communities of the contributions of these people with disabilities.
4. Community-based care and services can be more cost effective than institutional care, result in a higher quality of life, and promote the values of community participation, inclusiveness, and respect for diversity.
5. The active involvement of persons with disabilities of all ages and the representatives they choose in developing and implementing of activities or services designed to move people into, or allow them to remain in, community-based settings is critical to achieving these objectives.

To achieve these objectives, the Olmstead Advisory Committee agrees to follow these values in its efforts to advise the state in its implementation of the Olmstead decision:

- **Self-determination** by persons with disabilities of all ages or their chosen representatives about their own lives, including place of residence, employment and independent living.
- **Consumer choice** and access to information on community activities, programs, and services, in a culturally competent and understandable form, to assist in decision-making.
- **Integration** of persons with disabilities into all aspects of community life. Persons with disabilities must be given the opportunity to fully participate in the community's services, supports and activities through their own choices. The most integrated settings are independent living settings with or without supports or with the family of their choice, whenever possible.
- **Culturally competent and accessible community-based services**, that to the maximum extent possible, enable persons with disabilities of all ages and with all types of disabilities, to direct their own lives and live in the community in non-institutional settings.

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.