APSE’S PUBLIC POLICY EFFORTS: WHAT’S NEW, WHAT’S NEXT, HOW TO GET INVOLVED

2017 APSE Conference
Portland, OR
“We are here to drink beer. We are here to kill war. We are here to laugh at the odds and live our lives so well that Death will tremble to take us.”

- Charles Bukowski
What is public policy?

- System of laws, regulatory measures, courses of action, and funding priorities concerning a given topic promulgated by a government entity or its representatives
Who We Are

• A group of national APSE members that focus on Public Policy Issues (50+ members)
• Committee meets monthly (phone/on-line)
• What we do:
  • Provide updates and discuss federal and state public policy issues
  • Provide guidance to APSE staff and board on policy issues
  • Provide support to APSE staff in developing public policy documents and tools
• Employment First now virtually a universal movement across the United States

• 33 states with an Employment First policy
  • 21 are cross-disability

• Two new policies this year
  • New Mexico Developmental Disability policy adopted in November 2016
  • Indiana cross-disability legislation passed in April 2017

• Legislation proposed: Missouri

• Information: http://apse.org/employment-first
The setting is integrated in and supports **full access of individuals to the greater community**, including opportunities to seek **employment and work in competitive integrated settings**, engage in community life, control personal resources, and receive services in the community, **to the same degree of access as individuals not receiving Medicaid HCBS**.
What This Means

- States required to transition services to comply with this new rule within 7 years
  - *Just extended by 2 years*
- Transition plans were submitted to CMS by each state and currently under review
- [www.hcbsadvocacy.org](http://www.hcbsadvocacy.org)
• The Workforce Innovation & Opportunity Act of 2014

• Signed into law July 22, 2014

• Reauthorized Workforce Investment Act of 1998, including the Rehabilitation Act
Advisory Committee on Increasing Competitive Integrated Employment for Individuals with Disabilities

Final Report to:

The Honorable Thomas E. Perez
United States Secretary of Labor

The United States Senate
Committee on Health, Education, Labor and Pensions

The United States House of Representatives
Committee on Education and the Workforce

September 15, 2016
Data collection required based on common definition of CIE

Committee Recommendation
Highlights

Phase-out subminimum wage

National standards for professional competence

Expanded benefits counseling

Social Security reform

Reform AbilityOne Program
Statement of the Department of Justice on Application of the Integration Mandate of Title II of the Americans with Disabilities Act and Olmstead v. L.C. to State and Local Governments’ Employment Service Systems for Individuals with Disabilities

Nationally, millions of individuals with disabilities spend the majority of their daytime hours receiving employment and day services in segregated sheltered workshops and segregated day settings (including day treatment programs or facility-based day habilitation centers) where they are segregated from non-disabled persons. Many of these individuals are capable of working competitively and earning minimum wage or above in integrated employment and are not opposed to doing so, but they have been unable to access the services and supports that would allow them to find, obtain, and succeed in competitive integrated employment. In the approximately seventeen years since the Supreme Court’s decision in Olmstead v. L.C. ex rel. Zimring, 527 U.S. 581 (1999), regarding the integration mandate of Title II of the Americans with Disabilities Act (ADA), some state and local service systems have begun to provide a greater number of integrated community alternatives to individuals in or at risk of segregation in institutions or other segregated settings; yet, despite these advances, many individuals with disabilities who receive employment and day services that are planned, funded, and administered by state and local governments continue unnecessarily to receive services, and spend the majority of their daytime hours, in segregated settings.

A core purpose of the ADA is to “assure equality of opportunity, full participation, independent living, and economic self-sufficiency” for individuals with disabilities. The integration mandate of Title II of the ADA is intended to allow individuals with disabilities to live integrated lives like individuals without disabilities, including by working, earning a living, and paying taxes. The civil rights of persons with disabilities, including individuals with mental illness, intellectual or developmental disabilities, or physical disabilities, are violated by unnecessary segregation in a wide variety of settings, including in segregated employment, vocational, and day programs.

Since the passage of the ADA and the Supreme Court’s decision in Olmstead, the ADA’s Title II integration mandate has been applied in a variety of contexts. The ADA’s integration mandate applies to all the services, programs, and activities of state and local governments, including their employment service systems. This guide discusses and explains the requirements of the ADA integration mandate and Olmstead as applied to employment service systems for individuals with disabilities. It complements and supplements, but does not supersede, the

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2 Id. §§ 12131(1), 12132; 28 C.F.R. § 35.130(d) (2016); Pa. Dep't of Corr. v. Teskey, 524 U.S. 206, 210-11 (1998); Lane v. Kitzhaber, 841 F. Supp. 2d 1199, 1205-06 (D. Or. 2012) (holding that the ADA’s integration mandate extends to employment services and prohibits the unnecessary segregation, and risk of unnecessary segregation, of persons with disabilities in sheltered workshops).
Section 511:
New restrictions on use of sub-minimum wage

*effective July 22, 2016*

All initial annual reviews must be completed by July 22, 2017
Bills to phase out subminimum wage now introduced in both House and Senate
“The United States is a nation of laws, poorly written and randomly enforced.”

Frank Zappa, Musician
My administration will work with Congress to set an example of the importance and value of hiring individuals with disabilities.

My administration will seek to create opportunities for all Americans, including Americans with disabilities, on an equal basis without discrimination.

We will consider the possible creation of a National Office of Disability Coordination.

Inflexible, one-size-fits-all regulations in federal programs including Medicaid have harmed, not served, people with disabilities. The bias toward institutional care built into to regulations promulgated by the HHS waste money and fail to deliver the services needed. My administration will work to eliminate unneeded regulation and allow for greater flexibility in regulations to ensure programs including Medicaid better serve the needs of people with disabilities.
Betsy DeVos
Secretary of Education

Jeff Sessions
Attorney General

Tom Price
Secretary of Health and Human Services
Enforcement Actions: Murky Future
Individuals with Disabilities and Medicaid

- 10 million individuals
  - 15% of all beneficiaries
- 42% of Medicaid funding
- Medicaid is major funder of long-term services and supports (LTSS) for individuals with disabilities and others
  - 40% of Medicaid funding for individuals with disabilities goes to LTSS – 5 million individuals
  - Approximately 80% of LTSS for non-elderly individuals with disabilities is in community, not institutions
Starting in 2020, convert Medicaid to per capita funding

- States provided set amount per beneficiary by federal government based on formula
- No more guarantee of at least 50% match
- States would have to pick up all remaining costs
Fiscal Impact of Proposed Changes

• Estimated that federal Medicaid funding would be **reduced by 25%** (over **$1.4 trillion**) over next decade

• **States would have to make up difference via:**
  • Additional state funds
  • Cuts in individuals covered, services covered, rates

• Analysis by Kaiser Commission on Medicaid and Uninsured of previous block grant proposal found that over time:
  • Between **14 and 21 million individuals** would lose their Medicaid coverage
  • **Provider payment rates would be reduced by 30%**
• Proposed cuts and consolidation of discretionary programs

• Few undersecretary/commissioner appointments to date
“The key to my life is that I am willing to make an ass of myself.”

• Harry Chapin
Public Policy Infrastructure

What we accomplished in 2016-2017:

- **Monthly calls**: National committee and state liaisons
- New Action Alert System!!!
- Take Your Legislator Work Day
- Public Policy Webinars
- Expansion of “Take Your Legislator to Work Day”
Discussion
“The care of human life and happiness, and not destruction, is the first and only legitimate object of good government.”

- Thomas Jefferson
Public Policy Committee
Contact Information

David Hoff
617-287-4308
david@apse.org