



Center for Medicaid and CHIP Services

CMCS Informational Bulletin

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FROM: Cindy Mann, Director
Center for Medicaid and CHIP Services (CMCS)

SUBJECT: New Housing Resources to Support Olmstead Implementation

For more than a decade, the Centers for Medicare & Medicaid Services (CMS) has been partnering with States to use Medicaid funding and services to develop comprehensive long-term services and supports systems that are compliant with the Americans with Disabilities Act (ADA) and the historic June 22, 1999 *Olmstead vs L.C.* U.S. Supreme Court decision (*Olmstead*), which requires States to administer programs in the most integrated setting appropriate to the needs of qualified individuals with disabilities. CMS also recognizes the critical role of the U.S. Department of Housing & Urban Development (HUD) in providing the housing support individuals need to help them remain in the community. At the federal level, the U.S. Department of Health and Human Services (HHS) and HUD have been working together to forge a strong collaboration in support of achieving the promise of the *Olmstead* decision. This Informational Bulletin provides a description of recent HUD actions, policies and resources that are available as States develop strategies to balance their long-term services and supports systems.

As States continue to implement the *Olmstead* decision and reform and rebalance their long-term care systems, establishing and maintaining relationships with the housing community and leveraging the many housing opportunities available through HUD and State housing finance agencies will be critical to States' success. Many States have had success in using Money Follows the Person administrative funding to support staff who can focus on leveraging the housing resources in a State. And housing agencies may be increasingly receptive to forging partnerships with State Medicaid agencies as their future funding opportunities may depend on having such relationships. As discussed below, HUD recently provided a funding opportunity for rental assistance for very low-income individuals who require housing finance agency applicants to create a partnership with the State Medicaid program. We hope the information provided here will be useful to State Medicaid programs as they continue to improve access to home and community-based services for people with disabilities.

Background

Medicaid plays a vital role in States' efforts to provide and expand home and community-based services for people with disabilities and low-income older Americans. Even before the *Olmstead* decision was issued, CMS (then the Health Care Financing Administration or HCFA) published guidance to States on the implementation of Title II of the ADA in a [State Medicaid Director Letter issued on July 29, 1998](#). Subsequently, in response to the *Olmstead* decision, CMS issued a series of "[Olmstead Letters](#)" as guidance to States, identifying policies and providing technical support, tools and resources to States, to support their efforts to build robust, community-based systems that support community integration and community living. More recently, CMS issued the *Community Living Initiative State Medicaid Director Letter on May 20, 2010*, which reaffirmed our commitment to partner with States to comply with the ADA, and achieve the promise of *Olmstead*. Since issuing the Community Living Initiative letter, CMS, in collaboration with the HHS partners listed in the letter, has developed a significant partnership with HUD. In the past decade, CMS has administered nearly \$5 billion in grants to States, such as the Money Follows the Person, Real Choice Systems Change and Medicaid Infrastructure grants, to improve the infrastructure and long-term services and supports systems to support States to implement the requirements of the *Olmstead* decision. These efforts clearly demonstrate the importance of the availability of affordable, accessible housing, and the need for strong relationships between agencies that provide housing and services.

HUD Actions in support of community integration and Olmstead Implementation

HUD fully supports States' efforts to implement and comply with *Olmstead*, and has issued a series of guidance documents to States, public housing agencies, and other jurisdictions regarding the critical role of accessible, affordable housing in these efforts. These communications provide suggestions and expectations related to the deployment of HUD resources to support States' efforts to de-institutionalize persons with disabilities and ensure that persons at serious risk of institutionalization remain in community-based settings in accordance with Title II of the ADA. This first section provides information on recent HUD policies and communications, and the second section provides information on newly available resources.

Recent HUD Communications Related to Olmstead and Community Living

Guidance to FHEO Regional and Field Office Directors.

On August 11, 2011, HUD's Office of Fair Housing and Equal Opportunity (FHEO) issued [guidance to FHEO staff](#) on ways to assist persons with disabilities transitioning from institutions and persons at serious risk of institutionalization. The guidance provides background on the *Olmstead* decision and FHEO's role in conducting Section 504 and Title II ADA monitoring and compliance reviews. The letter outlines specific activities FHEO staff may identify to public housing agencies regarding outreach, accessibility feature needs, occupancy of accessible units, reasonable accommodation policies, and accessible housing listing and waiting lists, all of which would impact persons transitioning into the community. The letter also offers specific activities that may be incorporated into Section 504 and Title II ADA voluntary compliance agreements, including, among other things, incorporating an admission preferences for persons with disabilities transitioning from institutions.

Secretary Donovan’s Letter to Public Housing Agencies.

On June 22, 2009, Secretary Shaun Donovan issued a [letter to public housing agencies](#) as part of a joint effort between HUD and HHS to share information about the Money Follows the Person rebalancing demonstration program and to identify how public housing agencies can support this crucial effort. The letter urges public housing agencies to provide a local admission preference to people making the transition from institutions into community-based settings.

Notice Regarding Olmstead and Community Planning and Development Grants.

[CPD Notice 2008-05](#) (Original Notice [CPD-2005-03](#)) explains ways that funding through HUD’s Office of Community Planning and Development (CPD) programs can be utilized to respond to *Olmstead*.

Notice to Public Housing Agencies on Use of Housing Choice Vouchers for People with Disabilities.

[PIH Notice 2005-5](#) on Community-Based Alternatives for Individuals with Disabilities and the Housing Choice Voucher Program provides guidance to public housing agencies and HUD field staff on initiatives that can be implemented to assist families with a person with disabilities searching for housing.

HUD Resources That Can Support Community Living

Background on Section 811 Supportive Housing for Persons with Disabilities Program

The [Section 811 Supportive Housing for Persons with Disabilities](#) program provides funding to develop and subsidize rental housing with the availability of supportive services for very low-income adults with disabilities. The Frank Melville Supportive Housing Investment Act modernized and reformed the 811 program, creating opportunities to develop thousands of new permanent supportive housing units within affordable housing properties every year. The newly authorized Section 811 program changes include:

- Providing stronger incentives to leverage other sources of capital for 811 units, including federal Low-Income Housing Tax Credits, HUD HOME funds, and bond financing, and
- A new Project-Based Rental Assistance (PRA) approach to help State and local governments systematically create integrated supportive housing units within affordable rental housing developments.

To further integrate housing opportunities, the Section 811 program establishes a 25% cap on the total number of units in any multifamily housing project that can receive Section 811 assistance or be subject to any occupancy preference for persons with disabilities.

New Notice of Funding Availability (NOFA) for 811 Project Rental Assistance (PRA) and Partnerships with State Medicaid Agencies.

HUD recently published a [Notice of Funding Availability \(NOFA\) for 811 Project Rental Assistance \(PRA\)](#). This competitive funding opportunity invites the State Housing Finance Agency (HFA) or other appropriate housing agency to establish integrated supportive housing units for non-elderly persons with disabilities in affordable rental housing developments. The PRA option requires a joint State agency partnership (a formal written agreement) between the

State Housing Finance Agency (or other appropriate entity as determined by the HUD Secretary) and the State health and human services agency as well as (if different) the State agency responsible for the administration of the Medicaid State plan. The State Housing Finance Agency must have a formal written agreement with the State health and human services/Medicaid agency. The agreement must address:

- The target populations to be served.
- Outreach and referral methods for reaching the target populations.
- Supportive service commitments for tenants.

Only one application from each State will be eligible to receive funding. In the event that there is more than one application, the State health and human Services (State Medicaid Agency) agency will decide which application the State will support. Inquiries on the HUD Section 811 NOFA may be sent to PRADemoapplications@hud.gov.

Background on Housing Choice Vouchers

Housing choice vouchers (HCV), sometimes referred to as Section 8 vouchers, allow very low-income families to lease or purchase safe, decent, and affordable privately owned rental housing. HCVs are administered locally by public housing agencies (PHA). Certain special purpose HCVs have been awarded to PHAs to specifically serve the non-elderly disabled population. These are called [Non-Elderly Disabled \(NED\) vouchers](#). NED vouchers are vouchers specifically set-aside for persons with disabilities.

Recently Issued NED Vouchers.

NED Vouchers under the FY2009 NOFA were set aside for two categories of individuals with disabilities:

- Category 1 NED: 4,321 vouchers were awarded in October 2010 to help non-elderly people with disabilities to access affordable housing in the private market, including individuals in the community at risk of institutionalization. These vouchers were awarded in 19 States, Washington, D.C, and Puerto Rico.
- Category 2 NED: 948 vouchers were awarded in February 2011 specifically to support individuals transitioning into the community from institutional long-term care settings. These vouchers were unique in that applicant PHAs were required to identify the partnering human service agency. These vouchers were awarded in 15 States. CMS is providing technical assistance to many of these States to help them link these vouchers with the necessary long-term services and supports that enable individuals with disabilities to live successfully in the community.

Policy Regarding Maintaining Vouchers for NED Families & Other Special Populations.

In June 2011, HUD issued [PIH Notice 2011-32](#) “Policies and Procedures for Special Purpose Housing Choice Vouchers (HCV) for Non-Elderly Disabled Families and Other Special Populations” which provides guidance to PHAs that all vouchers awarded from appropriations from FY 1997 or any subsequent year for non-elderly disabled families, must be reestablished as NED vouchers and remain with the NED population upon turnover. Since 1997, around 400 PHAs have been awarded a total of approximately 55,000 vouchers specifically for non-elderly

disabled families. PHAs may serve non-elderly persons with disabilities transitioning from institutions with NED vouchers by establishing a preference for a dedicated number of their NED vouchers and adopting the preference in accordance with regular HCV program requirements. This Notice establishes policies and procedures for issuing, re-issuing, tracking and monitoring HCVs that were awarded under a NOFA to provide rental assistance for persons with disabilities. These efforts impact persons with disabilities transitioning from institutions as well as persons with disabilities at serious risk of institutionalization who are seeking housing in their communities.

Other Resources Related to Housing for People with Disabilities

- [Real Choice Systems Change Grants](#): These grants, issued by CMS in 2004 and 2011, provided funding to support States, public housing and housing finance agencies to work collaboratively, establish relationships, and develop common goals toward accessible, affordable housing.
- [Housing Capacity Building Initiative for Community Living](#): This joint HUD-HHS initiative supports federal, State and local agencies and community partners to create sustainable, collaborative relationships between housing and human services agencies.
- [Local HUD Offices](#): The HUD Portal provides information for connecting with the local HUD office in your region.

HUD and HHS continue to work together on further *Olmstead*-related initiatives, and we will continue to share information as it becomes available. We will build on our collaborative efforts to connect housing resources and home and community-based services at the State and local level to continue to generate sustainable, accessible housing with services to best serve people with disabilities.