



South Carolina Institute of
Medicine & Public Health



DISABILITY RIGHTS
SOUTH CAROLINA
PROTECTION AND ADVOCACY

Olmstead and Home and Community Based Services in South Carolina

- In 2022 an estimated 61 million Americans lived with a disability. This total included **1,304,480 South Carolinians** living with traumatic brain injuries (TBI), vision or hearing impairments, mental illness, intellectual disabilities, developmental disabilities, physical disabilities and co-occurring conditions.ⁱ
- In the 1999 Olmstead decision, the Supreme Court held that unnecessary institutionalization of people with disabilities violates the Americans with Disabilities Act.ⁱⁱ
- As a result of this ruling, people with disabilities have the right to receive services in the most integrated setting possible appropriate to their needs.ⁱⁱⁱ
- In 2001, a group of stakeholders and advocates put together a plan and set of recommendations to bring the state into compliance with the Olmstead decision. After several changes in leadership in the state, those recommendations were shelved and not revisited.^{iv}
- In subsequent years, the state agencies have made some attempts to move toward a system of home and community based services that would be compliant with federal law. However, there has not been any collaborative state level effort to address the issue since the 2001 report.
- People with disabilities and their families have continued to be institutionalized in mental health facilities, forensic hospitals, state institutions, and community residential care facilities in South Carolina. More still are at risk of institutionalization due to lack of available services in the community.
- In 2023, the Department of Justice investigated the state's use of adult care homes to serve people with mental illness. They found that South Carolina is in violation of the ADA by "failing to provide services to individuals with serious mental illness in the most integrated setting appropriate to their needs."^v
- **In order to address the lawsuit filed by the Department of Justice, the General Assembly and state agencies will have to consider expanding home and community based services in South Carolina.**

Recommendations for Action from the 2023 Report: Opportunities for South Carolina to Strengthen Home and Community-Based Services for People with Disabilities

Assign an Olmstead Compliance Coordinator and Olmstead Implementation Council to develop and implement a comprehensive Olmstead Plan for the state. Responsibilities would include:

- Providing direction and oversight for the plan's development.
- Controlling and monitoring the performance and modification of the compliance activities.
- Developing and implementing quality assurance and accountability processes.
- Overseeing and managing communication about the Olmstead Plan and the compliance activities of the Olmstead Implementation Council.

Develop an Olmstead Plan for South Carolina. The plan should include:

- Increase the number of slots for waivers and shorten the time people with disabilities are on waiting lists.
- Employ a multifaceted approach that leverages various recruitment and retention strategies to increase the number of qualified home and community-based service staff.
- Support current advancements toward competitive integrated employment (CIE), such as Employment First and the Elimination of Subminimum Wage.
- Increase accessible and affordable housing in the community for people with disabilities.
- Increase accessible transportation options for people with disabilities.
- Increase access to assistive technology in the homes of people with disabilities and workplaces to support employment. Strategies should include investments in building awareness of available assistive technology options and training in utilizing the equipment for individuals with disabilities and the family and staff that support them.
- Increase the use of person-centered practices, organize care activities and improve information sharing across providers.

ⁱCenters for Disease Control and Prevention (2022) Prevalence of Disabilities and Health Care Access by Disability Status and Type Among Adults. <https://www.cdc.gov/disability-and-health/articles-documents/disabilities-health-care-access.html>

ⁱⁱGinsburg, R. B. & Supreme Court Of The United States. (1998) U.S. Reports: Olmstead v. L.C., 527 U.S. 581. [Periodical] Retrieved from the Library of Congress, <https://www.loc.gov/item/usrep527581/>

ⁱⁱⁱGinsburg, R. B. & Supreme Court Of The United States. (1998) U.S. Reports: Olmstead v. L.C., 527 U.S. 581. [Periodical] Retrieved from the Library of Congress, <https://www.loc.gov/item/usrep527581/>

^{iv}South Carolina Developmental Disabilities Council. (2001 August). S.C. Home and Community Based Services Task Force Report Olmstead 2001. Retrieved on November 1, 2022 from <https://www.sccdc.state.sc.us/documents/SCHomeAndCommunityBasedServicesTaskForceReport.pdf>.

^vhttps://www.justice.gov/d9/2023-07/south_carolina_ada_findings_report_0_0.pdf



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