



Family Voices' Response to the Department of Justice's Legal Opinion Memorandum

Supporting the Right of People with Disabilities to Live at Home and in Their Communities

Family Voices supports home- and community-based services for children and adults with special health care needs and disabilities. These services prevent isolation, improve health outcomes, and allow people with disabilities to live full lives. We also support a family- and patient-centered decision-making process. Families and individuals know what is best for them and should be a key part of determining their need for HCBS. We urge our federal partners to continue to fund and mandate needed services for people with disabilities in their homes and communities.

For Family Voices, the fight for disability rights and home- and community-based services is deeply rooted in our history. Family Voices and our founders played a key role in the creation of HCBS, specifically Katie Beckett/TEFRA Waivers which provide access to home-based care for children with complex medical needs based on their income alone. The waiver allows many people under the age of 19, who have serious conditions related to their disabilities, to stay at home rather than be placed in an institutional setting. Through the continued efforts of Family Voices, the Family-to-Family Health Information Centers, and Family Voices Affiliate Organizations, families are able to connect to home- and community-based services in their communities.

It is important to note this memorandum (memo) is not a court decision; it does not erase [*Olmstead v. L.C. \(1999\)*](#), change Supreme Court precedent, or remove ADA, Section 504, or the regulations that protect community living. ***Olmstead is still the law.*** However, this memo does pave the way for the federal government to not enforce these protections and rulings.

According to the memo, the current interpretation of *Olmstead* goes beyond what was intended, and the memo asserts that:

- A state cannot institutionalize a person without adequate justification.
- There is no broad federal requirement that states provide home- and community-based services.
- Federal law prohibits discrimination but does not require states to fund or provide services in community settings instead of institutional settings.

For people with disabilities and their families and caregivers, this change to how the federal government interprets the decision can negatively impact their rights. While people with disabilities can still bring *Olmstead* claims, without the federal government's enforcement and defense, many will have to rely on individual state decisions, private lawsuits, and disability rights organizations. These additional barriers create a larger burden on the disability community, who have the right to live, work, and learn with family, friends, and community members.