

Olmstead Terms and Phrases to Know

Americans with Disabilities Act (ADA): The ADA, which became law in 1990, prohibits discrimination against people with disabilities. It generally requires that public entities, employers, and other entities provide reasonable accommodations so that people with disabilities can be included. The ADA is divided into sections: Title 1 – employment; Title II public entities; Title III public accommodations; Title IV – telecommunications; and Title V – Miscellaneous and Technical Provisions. The *Olmstead* decision was based on the reasonable accommodation requirement of Title II and the Integration Regulation promulgated by the United States Justice Department as part of its authority under the ADA to promulgate regulations.

Home and Community Based Services (HCBS): This term is often used interchangeably with “Medicaid Waiver” and refers to Medicaid funded services that individuals can receive in their own home and community rather than in an institution. Medicaid Waivers usually do not provide services to people whose primary diagnosis is mental illness or addictive disease, although Congress has given states some flexibility to include these individuals. You can find out more information about HCBS here: [HCBS at Medicaid.gov](https://www.hcbsatmedicaid.gov). Medicaid Waivers often have waiting lists. These waiting lists may violate Olmstead and create legal rights. Also, because waiting lists often exist, individuals should apply for Medicaid Waivers before the need for such waivers is absolutely necessary.

Intellectual Disability: AAIDD defines intellectual disability as “a disability characterized by significant limitations in both **intellectual functioning** and in **adaptive behavior**, which covers many everyday social and practical skills. This disability **originates before the age of 18.**” The terms in bold have specific meanings explained by [AAIDD at this link](#) and are often used to determine eligibility for programs and services for people with this diagnosis.

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Money Follows the Person (MFP): A federal program that enables people with disabilities in certain institutions to return to the community. MFP only applies to people in nursing facilities and institutions for intellectual disabilities/developmental disabilities. Through MFP, a person usually transitions into the community with a Medicaid Waiver and with financial assistance. It is an optional program in which states can participate. As of 2013, 44 states and the District of Columbia were participants. You can find out more about MFP here: [MFP at Medicaid.gov](#).

Olmstead: Olmstead is the name of the most important civil rights decision for people with disabilities in our country's history. This 1999 United States Supreme Court decision was based on the Americans with Disabilities Act. The Supreme Court held that people with disabilities have a qualified right to receive state funded supports and services in the community rather than institutions when the following three part test is met:

1. the person's treatment professionals determine that community supports are appropriate;
2. the person does not object to living in the community; and
3. the provision of services in the community would be a reasonable accommodation when balanced with other similarly situated individuals with disabilities.

Olmstead Plan: In the Olmstead decision, a plurality of the Justices of the United States Supreme Court suggested that a state may be able to defend against an Olmstead lawsuit if the state could show it had an effective working plan with reasonably paced moving waiting lists to transition people with disabilities from institutions into the community. This part of the decision has been interpreted to mean that a state could create an Olmstead Plan to carry out its obligations under Olmstead. It is questionable whether any state created an effective working Olmstead Plan as of 2014.

Person Centered Planning (PCP): Person Centered Planning is a method of assisting an individual with a disability to plan his or her life and supports. The individuals' own goals, gifts, and needs are at the heart of person centered planning.

Peer Support: This term is used when a person who has a certain type of disability supports another person with a similar disability through mentorship, friendship, or other types of support. In some states, individuals with a disability can receive training and certification for peer support and even get paid to provide peer supports. Peer support can be incredibly valuable in assisting a person to return to the community from an institution. To learn about how mental health peer support works in one state (Georgia), go to this link: [Georgia CPS Project](#).

Recovery: Recovery is a central goal for people with diagnoses of mental illness and substance abuse disorder/addictive disease. Mentalhealth.Gov defines recovery as follows: “Recovery from mental disorders and/or substance abuse disorders is a process of change through which individuals: Improve their health and wellness. Live a self-directed life. Strive to achieve their full potential” -- [Recovery at Mentalhealth.Gov](#)

Self-Direction: Self-direction is an option that allows Medicaid Waiver recipients to manage their Medicaid services with certain supports provided. States have the option of allowing self-direct when they apply for Medicaid Waiver services.

Supported Employment: Supported employment includes programs or other supports wherein people with disabilities are assisted with obtaining and maintaining competitive employment. Learn more about supported employment for people with mental illness here: [Dartmouth IPS Supported Employment Center](#). Important variations of supported employment have developed, including [customized employment](#).

Transition Plan: A transition plan is a required plan for every student in a public school who has an IEP (individualized education plan). The plan is required to commence at age 16 by federal law but some states require transition planning begin at age 14. The plan should include achievable goals that take into account academic preparation, vocational goals, and independent living objectives. Transition planning, if done well, can be a critical time to ensure that *Olmstead* goals are achieved.

*This was created for <http://www.olmsteadrights.org/> Please suggest additional terms for definition or corrections to Talley Wells at ctwells@atlantalegalaid.org