



Alabama

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Department of Mental Health

Testimony before the Committee on Health, Education, Labor & Pensions
Olmstead Enforcement Update: Using the ADA to Promote Community Integration

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Alabama Department of Mental Health

June 21, 2012

Table of Contents

Executive Summary	1
Testimony	2
Introduction	2
Plans and Initiatives: Division of Developmental Disabilities	2
Plans and Initiatives: Division of Mental Health & Substance Abuse Services	3
Employment & Housing Programs	5
Challenges	6
Needs	6
Close	7
ADMH Community Integration Timeline	8
Census Reduction in ADMH Facilities	9
Mental Health	9
Intellectual Disabilities	9

Executive Summary

In 1999, the Alabama Department of Mental Health (ADMH) created a strategic plan that resulted in the settlement of the 30-year-old *Wyatt v. Stickney* lawsuit. That plan became ADMH's designated *Olmstead* plan. Since the implementation of the *Wyatt* settlement agreement, ADMH has further planned and executed numerous major initiatives that effectuate the letter and spirit of *Olmstead*.

Regarding services for people with intellectual disabilities, ADMH settled a waiting list lawsuit by developing more well-defined and noticed due process procedures relating to denials and/or delays in granting eligibility and/or services to people with ID. The settlement supports the proposition that Alabama may cap its home and community-based services waiver programs and operate a waiting list serving applicants by priority based upon their levels of severity and emergent needs. In addition, with the closure of the W.D. Partlow Developmental Center in December 2011, Alabama became the first state in the South to achieve the milestone of closing all public institutions for people with intellectual disabilities and instead serving all eligible individuals in home and community-based waiver services.

ADMH has also enacted a systematic and inclusionary plan to reduce levels of institutional care and expand access to community-based services for individuals with mental illnesses. Through extended-care transitions, acute-care transitions and facility closures, ADMH has demonstrated less reliance upon state psychiatric inpatient services by shifting funding and focus to less costly, but more effective community services and supports. Likewise, funding continues to be dedicated for community integration and service expansion efforts, and the department has worked with other state agencies to expand services. Further efforts to provide a better quality of life in the community for both individuals with mental illnesses and intellectual disabilities include collaborations on several housing and employment initiatives.

ADMH has experienced three main challenges in its efforts to shift services to community settings: securing stakeholder buy-in, identifying and developing resources within provider organizations to serve persons with significant behavioral challenges or multiple medical needs, and negative stigma. While ADMH has developed strategies to overcome these challenges, long-term efforts will be needed to ensure continued success. Additionally, decreased funding to Medicaid, proposed cuts to medication coverage and optional health care services, and more collaboration between federal and state levels in meeting *Olmstead* goals are areas of great concern and need. Ultimately, ADMH is proud of its large-scale initiative to provide community-based care for Alabamians and ushering in a new era of individuals enjoying inclusive lives in their communities.

Testimony before the Committee on Health, Education, Labor & Pensions

Olmstead Enforcement Update: Using the ADA to Promote Community Integration

Introduction

In 1999, the Alabama Department of Mental Health (ADMH) created a strategic plan that resulted in the settlement of the (at the time) 30-year-old *Wyatt* lawsuit. That agreement became ADMH's designated *Olmstead* plan. ADMH substantially complied with the provisions of the settlement over a three-year period, resulting in the end of this landmark lawsuit that, among other things, was a precursor to the Americans with Disabilities Act that was later construed in the *Olmstead* case. Since the implementation of the *Wyatt* settlement agreement, ADMH has further planned and executed numerous major initiatives that effectuate the letter and spirit of *Olmstead*.

For example, among other things, the *Wyatt* settlement required a minimum of 300 beds in extended-care psychiatric hospitals and 300 people residing in developmental centers (intermediate care facilities for people with intellectual disabilities, i.e. ICF/ID) be closed and the individuals placed in community-based settings, respectively. ADMH deliberately did not agree to close any specific facility that it operated. However, as it moved individuals to community-based settings, the department decided on a comprehensive consolidation plan to close three developmental centers, all three nursing homes, co-locate one psychiatric hospital with another, eventually close the relocated hospital and establish community services support teams for ID residents.

Plans and Initiatives: Division of Developmental Disabilities

Before the *Wyatt* settlement agreement could be implemented, another lawsuit was filed on behalf of individuals with intellectual disabilities who were already living in community-based settings, but who sought Medicaid home and community-based services waivers. Once *Wyatt* was settled, and after some limited litigation, the department settled this "ID waiting list case" by incorporating more well-defined and noticed due process procedures relating to denials and/or delays in granting eligibility and/or services to people with ID. The settlement supports the proposition that Alabama may cap its home and community-based services waiver programs and operate a waiting list serving applicants by priority based upon their levels of severity and emergent needs, as it has designed.

Recently ADMH assessed the remaining individuals being served at its last intermediate care facility for people with intellectual disabilities (ICF/ID), the W.D. Partlow Developmental Center, and determined that all of its residents would be better served in more community-integrated environments. Therefore, in March 2011 the current ADMH commissioner, Zelia Baugh, and Governor Robert Bentley decided to close Partlow and instead serve all eligible

individuals in home and community-based waiver services throughout Alabama. At the time of the closure announcement, 11 other states had closed all their public institutions for persons with intellectual disabilities, and Alabama became the first state in the South to achieve this milestone when the center officially closed on December 28, 2011.

Plans and Initiatives: Division of Mental Health & Substance Abuse Services

As a result of the *Wyatt* “right to treatment” litigation and in response to the *Olmstead* “integration mandate,” ADMH’s Division of Mental Health & Substance Abuse Services has been an active participant in Alabama’s systematic and inclusionary plan to reduce levels of institutional care and expand access to community-based services.

Upon the inception of the Home and Community Based Services Expansion Project, ADMH was a member of the *Olmstead* Planning Core Workgroup established by the lead agency, the Alabama Medicaid Agency. The workgroup comprised of state agencies, consumer and advocacy groups, and other stakeholder representatives was charged with designing a three-year strategic plan for expanding home and community-based services. Through the *Wyatt* settlement agreement, ADMH was required to implement a statewide community education plan, reduce institutional levels and develop more community options. Several workgroups comprised of ADMH administrators and hospital staff, consumer and family members, public and private mental health providers, and advocacy groups were established to form the *Wyatt* Implementation Plan. This *Wyatt* plan and the three-year *Olmstead* plan converged to create the roadmap to drive a reduction in the use of state psychiatric institutions and expand community service options.

The converged plan supported the implementation of a census reduction model in which the care of individuals housed within the state’s extended-care wards would be transferred to the community provider network. This resulted in a significant expansion of residential services, many of which reflected the development of new “specialty,” and small capacity (three bed) residential models to address the unique needs of extended-care residents, such as medical and forensic needs. Expert training and consultation was also provided through *Olmstead* funds and other funding sources to include deaf interpreter training, person-centered discharge planning and dual diagnosis services.

ADMH has demonstrated less reliance upon state psychiatric inpatient services by shifting funding and focus to less costly, but more effective community services and supports. Strides to better serve consumers outside of inpatient settings have continued beyond those prompted by the *Wyatt* settlement, leading to a statewide reduction in hospital census as well as closures of state psychiatric facilities. As an example, since 1971 the census at Bryce Hospital, Alabama’s oldest psychiatric hospital, has dropped from more than 5,000 patients to less than 240 in 2012. Other activities that have followed *Wyatt* initiatives include:

In 2007 regional planning groups made up of consumers, family members, mental health providers, and other stakeholders developed plans for new services and protocols designed to transfer the acute-care function from state hospital admission units to local community settings. These efforts resulted in a number of residential programs obtaining “designated mental health facility” status (community-based psychiatric units or hospitals that may serve committed patients outside of a state-run institution), the purchase of local inpatient care, increased psychiatric time, development of a Psychiatric Assessment Center in an area of high state hospital admissions and the establishment of mental health service teams consistent with “best practices,” such as Assertive Community Treatment teams, Adult In-Home Intervention teams and Bridge teams.

In FY09 extended-care residents at Bryce and Searcy were evaluated to identify needed community services to permit discharge from those hospitals. In addition, residents living in community residential programs for over a year were evaluated to determine services needed to promote independent living in community. The planning process continued into FY10 and was incorporated into planning for the sale of Bryce Hospital to the University of Alabama and the subsequent construction of a smaller, state-of-the-art hospital. Final plans were developed and approved by the Bryce Consumer Transitioning Work Group, the Mental Illness Coordinating Subcommittee (both incorporating a wide range of stakeholder representation) and the commissioner.

The community provider network in Alabama’s MI Regions 2 and 4 established boards for the purposes of promoting service coordination and monitoring of project goals at a regional level. New services began in June 2010 in Region 2 (north central Alabama in the Bryce Hospital-served area) and in August 2010 in Region 4 (south Alabama in the Searcy Hospital-served area). The plans included the development of a variety of community services such as an increase in permanent supportive housing units; augmenting current residential homes; establishing a Medication, Observation, and Meals (MOM) apartment model; an increase in small capacity (three bed) homes; the utilization of Peer Bridger Teams; an increase in Peer Support Services and the use of flex funds.

Another part of ADMH’s plan for consumer independence and inclusion is the closing of two psychiatric hospitals by the end of this calendar year. To prepare for closure at Greil and Searcy Hospitals, a census downsizing has been underway for the past year. While downsizing is a working goal for ADMH, the feat would not be attainable without partnerships the department has made with community-care providers and private healthcare facilities. By closing these hospitals and successfully overseeing all transfers of consumers, ADMH will provide the best health care available and do it in a way that is financially responsible.

Funds continue to be dedicated for community integration and service expansion efforts

though block grant dollars, general state funds and other grant resources. Throughout the years, community integration and services expansion have been the focal point of the SAMHSA Block Grant goals and targets for mental health services. The MI Planning Council, which is mandated to approve the Mental Health Block Grant goals, has supported this process, and their guidance has steered enhancements to this process to expand into peer-directed care that is strength based and person centered. In fact, over a decade ago, ADMH partnered with the MI Planning Council to apply for the *Olmstead* stipend, which is provided to states on an annual basis. The MI Planning Council established guidelines for the submission and approval process for proposed uses of the stipend. Funding is dedicated to facilitate state's efforts to carry out the values expressed under the *Olmstead* decision of promoting community integration for adults with serious mental illnesses and/or co-occurring substance use disorders and children with serious emotional disturbances.

Additionally, ADMH is currently working with the Alabama Medicaid Agency to expand services through increased rehab options, targeted case management and the 1915-i state plan amendment (SPA). The 1915-i SPA involves needs-based criteria that require an individual to have a variety of risk factors and a functional need for assistance with community living skills, which cannot be met by an outpatient clinical service.

Employment & Housing Programs

ADMH's Division of Developmental Disabilities is working with the Alabama Medicaid Agency to propose amendments to its existing HCBS waiver programs to de-emphasize day services and emphasize more supported and integrated work services. ADMH is hopeful that resolution to these amendments can be achieved by summer 2012. Additionally, the Division of Mental Health & Substance Abuse Services is also reviewing ways to shift from day programming to employment services assisting consumers in achieving maximum quality of life, independence and self-worth.

To foster more housing opportunities for people with serious mental illnesses or intellectual disabilities, ADMH embarked upon a two-year partnership with the Alabama Housing Finance Authority to prioritize portions of housing developments financed through a combination of low-income housing tax credits and the Home Investment Partnership Program. These plans were approved by HUD and netted up to 15 percent of housing units developed through funding from these two programs for the years 2000 and 2001. Under this initiative, people with mental disabilities have a priority for occupancy up to the total of reserved units and when they vacate the premises, that priority remains. If after working with local mental health service providers and ADMH, housing managers cannot find a person with mental disabilities to occupy the premises, other tenants may occupy that small, integrated percentage of these units. ADMH also created a housing consultant/advocate position to assist

individuals with issues that may arise with the managers of these units (and others) because of problems they may have with landlords related to their illness or condition. In addition, ADMH is currently working with HUD, AHFA and housing developers on pilot demonstrations to provide more housing options in integrated settings for individuals.

Challenges

ADMH has experienced three main challenges in its efforts to shift services to community settings. The first challenge was securing stakeholder buy-in. While most consumer and advocacy groups supported the idea, much resistance was met from legislators, probate judges and law enforcement. Likewise, some families expressed concern that their relatives could not live and work in the community and that somehow they would be sacrificing safety by not living in a congregate setting. ADMH held regional meetings with these stakeholders to educate them about the closure process and listen to their concerns, and even made changes to meet their needs. Additionally, much effort went into assuring families that their relatives' needs and safety could continue to be met at or above the level of institutional care.

Also challenging was identifying and developing resources within provider organizations to serve persons with significant behavioral challenges or multiple medical needs. ADMH held specialized trainings with interested providers about enhancing their services in order to serve these individuals. However, as institutions have closed and budgets have shrunk, the ability of the state, with its limited resources, to provide ongoing training to provider organizations to assist them with professional growth has been difficult.

A third challenge stems from the negative stigma sometimes directed towards people with mental illnesses and intellectual disabilities. NIMBY-based ("Not In My Backyard") opposition across the state and country, stigmatic language and incorrect assumptions about violent tendencies are all examples of stigma. ADMH believes part of providing quality services to the people it serves includes public education and stigma reduction efforts, and the department regularly implements public education strategies. For individuals with intellectual disabilities, these efforts bring inclusion in the community closer to reality. For those with mental illnesses, giving the facts about these illnesses encourages people to get treatment or help others they know seek treatment. It also enhances long-term recovery, and increases understanding and acceptance from friends, family members, peers and society as a whole.

Needs

There is a concern that with decreased funding to Medicaid, there will be a decline in the overall quality of health care available to persons currently served through the HCBS waivers. Individuals already have limited choices in healthcare providers who accept Medicaid. With proposed cuts to providers, their choices could become more limited. Also, with proposed

cuts to medication coverage and optional health care services, people's quality of health, safety and well-being could be further complicated.

Additionally, more collaboration between federal agencies in consolidating and streamlining mandates and access to federal programs that meet the initiatives of *Olmstead* efforts would be helpful. Currently states have to dedicate extensive resources to seek out federal grants and programs that would help them meet their *Olmstead* goals. Improved communication between the federal and state levels could help ensure states meet and exceed these goals.

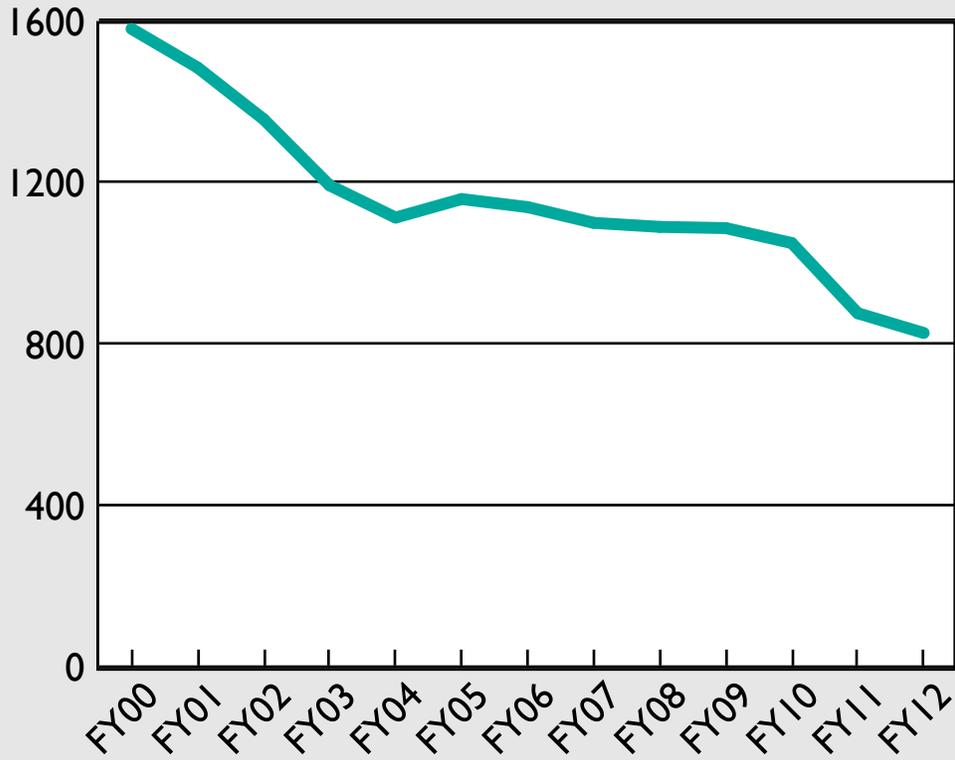
Close

The Alabama Department of Mental Health has launched a large-scale initiative in providing community-based care for Alabamians. Not only has the department enjoyed success, but more importantly, individuals who have transitioned to community-based care have reported being more satisfied with services and more connected with their friends and families. The era of institutionalization is over. Instead, a new era has begun with individuals enjoying inclusive lives in their communities.

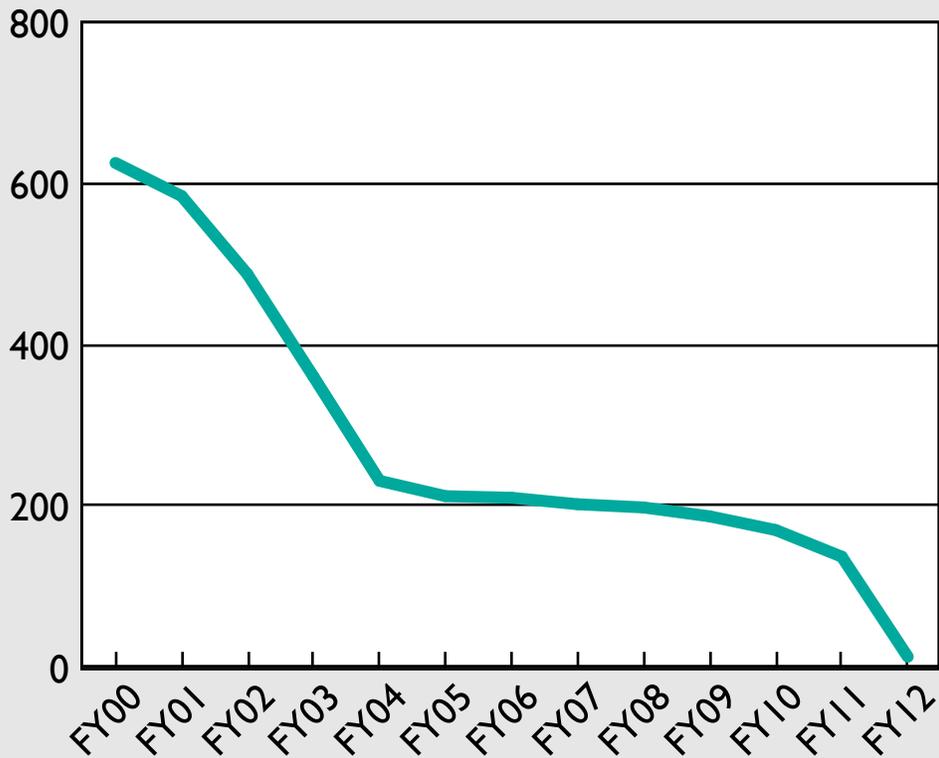
ADMH Community Integration Timeline

- December, 2011 — W.D. Partlow Developmental Center closed
- July, 2009 — Alice Kidd Nursing Home closed
- October, 2004 — Thomasville Mental Health Rehabilitation Center merged with Searcy Hospital
- April, 2004 — A.P. Brewer-Bayside Developmental Center closed
- January, 2004 — J.S. Tarwater Developmental Center closed
- December, 2003 — Wyatt Case closed
- October, 2003 — Lurleen B. Wallace Developmental Center closed
- September, 2003 — Thomasville Mental Health Rehabilitation Center relocated as a separate entity on the Searcy Hospital campus
- S.D. Allen Nursing Home closed
- August, 2003 — Claudette Box Nursing Home closed
- January, 2000 — Wyatt settlement agreement
- June, 1999 — *Olmstead* decision
- April, 1996 — Eufala Adolescent Center closed
- November, 1996 — Glenn Ireland, II Developmental Center closed
- October, 1970 — Wyatt case filed

Census Reduction in ADMH Facilities



Average daily census in ADMH mental health facilities since Wyatt settlement agreement was reached in 2000.



Average daily census in ADMH intellectual disabilities facilities since Wyatt settlement agreement was reached in 2000.