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Study of State Programs for Providing Services to Persons With Disabilities



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**LEGISLATIVE COMMISSION'S SUBCOMMITTEE
TO STUDY STATE PROGRAMS
FOR PROVIDING SERVICES TO PERSONS
WITH DISABILITIES**

January 2003

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SUMMARY OF RECOMMENDATIONS

This summary presents the recommendations approved by the Legislative Commission's Subcommittee to Study State Programs for Providing Services to Persons with Disabilities. The Subcommittee will submit these proposals to the 72nd Session of the Nevada Legislature.

A. Subcommittee Recommendation: Items Recommended for Bill Draft Request (four BDRs).

1. Establish an ongoing statutory legislative committee and other related requirements (BDR would include the following four Subcommittee recommendations).

- i. Establish an ongoing Legislative Committee on Persons with Disabilities, similar to SCR 32 from the last regular session, as a statutory committee. This committee should also: comprehensively review, evaluate and recommend improvements to the state of Nevada's programs, including, without limitation, whether the state is complying with the American with Disabilities Act (ADA) in light of the Olmstead decision and the state's progress toward implementing its Olmstead Plan; assess the quality, effectiveness and need for changes to the policies and systems for providing long-term care services to adults and seniors with disabilities; assess the quality, effectiveness and need for changes to the policies and systems for providing long-term care services to children with disabilities and their families; ensure that data systems effectively provide consistent cross-agency information and meaningful outcomes specific to each service, as needed for the state to effectively make decisions, plan, budget, and track and monitor costs and outcomes of services; and examine the restructuring of services provided by state agencies to outsource all direct service, care and case coordination to non-profit or private entities to strengthen and add independence to the functions of planning, coordination and quality assurance at the state level.
- ii. Require the Department of Human Resources to examine the impact of assessments of persons with disabilities, including, without limitation, any savings in costs incurred as a result of such assessments, and report the results of its examination annually to the Legislative Committee on Persons with Disabilities before July 1 in even-numbered years and before October 1 in odd-numbered years.
- iii. Require the Department of Human Resources to report annually to the Legislative Committee on Persons with Disabilities on the expansion of the Medicaid Buy-In Program, and on its progress toward the goal of equitably providing, by 2008, medical insurance coverage or wraparound services to all persons with disabilities who, by virtue of becoming employed, have established an income above poverty level, but cannot obtain the health care coverage and services needed to terminate reliance on public benefits. This report would be required to be provided to the Legislative Committee on

Persons with Disabilities by July 1 in even-numbered years and by October 1 in odd-numbered years.

- iv. Require the Department of Human Resources to study the development of a rider to the Medicaid budgets, based on the model used in the state of Texas, where the money follows the person for children and adults who have been assessed and determined to be in unnecessarily restrictive residential environments, and report the results of its study to the ongoing Legislative Committee on Persons with Disabilities.

2. Changes in state agencies/ombudsman (BDR would include the following two Subcommittee recommendations).

- i. Establish an Office of Disability Services within the Department of Human Resources. Transfer the Office of Community-Based Services from the Department of Employment, Training and Rehabilitation, Rehabilitation Division, to the Department of Human Resources. The Office of Disability Services should: coordinate planning across systems and agencies that provide services to persons with disabilities and across disability populations; monitor the implementation of strategic planning goals; ensure compliance with the provisions of the ADA; oversee the development of a comprehensive data system that works across agencies; and ensure that state and county resources are coordinated.
- ii. Fund, through legal services, an Office of Ombudsman Services for persons with disabilities, which will serve as a last resort for persons with disabilities to access after going through the Office of Disability Services. Appropriate \$130,000 each year to fund this office. The ombudsman will mediate issues related to integrated settings, the ADA, and the Individuals with Disabilities Education Act (IDEA), which remain unresolved after other remedies have been exhausted.

3. Develop and implement a statewide 211 universal access telephone communication system (BDR).

Establish, develop and fund a 211 universal access line in the state of Nevada. Ensure that this is the one system that will be used by people to obtain information on social services. Require the Department of Human Resources to assist with the development and establishment of the 211 line.

4. Consolidate and streamline SSI/Medicaid application processes (BDR).

Require the Department of Human Resources to establish a single eligibility application for SSI and Medicaid to ensure that all eligible at-risk children and adults quickly receive the assessments and Medicaid services they need.

B. Subcommittee Recommendation: Items Recommended for Legislative Resolution (six recommendations included in the Resolution).

1. Encourage the Executive Branch, in planning budgets and making decisions concerning programs associated with services for persons with disabilities, to consider persons with disabilities and services in a more holistic manner so that decisions made concerning one population or service do not occur in isolation of decisions made concerning other populations or services. This goal should not lead to a reduction in services for any disabled population.
2. When planning budgets and making decisions concerning programs associated with services for persons with disabilities, current regulations and policies prohibit budgetary provision for persons with disabilities and their families whose incomes exceed current guidelines and limitations, regardless of the identified need for services. Without such services, undue economic and emotional hardship would fall upon these families. The Subcommittee encourages the Executive Branch to revise current guidelines and requirements and consider making budgetary provisions for needed disability services to include persons with disabilities, and their families, whose incomes exceed current guidelines.
3. Recognize the *Nevada Strategic Plan for People with Disabilities* developed pursuant to Assembly Bill 513 from the 2001 Legislative Session as the plan developed in this state to comply with Title II of the Americans with Disabilities Act (ADA) in light of Olmstead and the Olmstead plan. Also recognize the need for the Department of Human Resources to monitor, review and revise the plan as necessary to ensure that the state of Nevada complies with the ADA.

The 1999 United States Supreme Court case known as Olmstead v. L.C. and E.W. involved two ladies with mental retardation and mental illness who were patients at a state-operated hospital in Georgia. The ladies did not want to remain in the institution, and state treatment professionals felt they could live in a community setting with appropriate support. The state of Georgia refused to move the ladies because there were no community-based services placements available.

The U.S. Supreme Court ruled against the state of Georgia and determined that the women's continued institutionalization was a violation of their rights under the Americans with Disabilities Act (ADA) because the women were not in the most integrated setting possible and did not wish to be in an institution.

The court suggested two ways by which a state can show compliance with the Olmstead decision:

- A state may develop a comprehensive, effective working plan, including timetables and progress reports, for placing qualified people in community-based settings.

- A state may maintain a waiting list for community-based services, but the list must move at a reasonable pace and may not be motivated by a desire to fill institutions.
4. Encourage the Executive Branch to identify and transfer persons in institutional care who can be served in the community, to the community if the persons do not oppose such transfer. This should include appropriate discharge planning, transitional supports and targeted services coordination. Also, encourage the Executive Branch to identify persons who are at risk of being improperly institutionalized and take action to prevent people from being improperly institutionalized. The Department of Human Resources should report to the Legislature, before the 2005 Session, the results of its efforts to transfer or divert persons with disabilities from institutions to community settings.
 5. State that the Legislature, when considering legislation that will impact children or adults with disabilities, recognize the importance of the potential effects of the legislation on the lives of such persons, including, without limitation, their ability to access services.
 6. Encourage the Governor to consider funding for programs that provide critical health, mental health, nutritional and personal assistance services to children and adults with disabilities, poor children, and frail seniors, as a high priority to the extent reasonably possible during times of budget shortfalls.

C. *Statements of Intent and General Recommendations (14 recommendations).*

1. Ensure that persons with disabilities are involved in the process of developing policies concerning services provided by the state to persons with disabilities, and in monitoring programs that provide such services.
2. Support the collection of accurate and meaningful data for planning, budgeting, measuring and monitoring services provided to persons with disabilities.
3. Encourage the Executive Branch to establish budgetary policies ensuring, within the limits of available funding, that adequate and continued funding is made available for services to persons with disabilities to reduce waiting lists and ensure that waiting lists move at a reasonable pace. The Legislative Commission's Subcommittee to Study State Programs for Services to Persons with Disabilities would encourage establishing a target goal of a maximum of 90 days, subject to available funding, for waiting lists associated with services critical to community integration, medication clinics and treatment for mental illness, home and community based services (HCBS), and personal assistance for children and adults with disabilities.
4. Encourage the Executive Branch to work toward the state of Nevada funding all long-term care services provided to Medicaid-eligible persons in nursing facilities, instead of the county funding 50 percent and the state funding 50 percent of the

services, to eliminate any bias or perceived bias of the state for institutionalizing persons.

5. Encourage the Executive Branch to develop, as part of the state of Nevada's Olmstead plan, quality assurance measures in all state programs that provide services to persons with disabilities, and ensure that persons with disabilities are involved in the development and implementation of such measures.
6. Encourage the Board of Regents of the University and Community College System of Nevada to provide programs for persons with disabilities that are accessible to such persons, including, without limitation, an AA degree in independent living and non-degree courses for persons with disabilities.
7. Encourage the state of Nevada and counties and other local governments to work with persons with disabilities and the Nevada Association of Counties (NACO) to ensure that buildings in this state are accessible to persons with disabilities, including, without limitation, ensuring that housing is accessible in all counties of the state, and that the state and local governmental entities are in compliance with the ADA and other relevant federal and state laws.
8. Encourage the Executive Branch and the Legislature to establish appropriate provider rates for personal assistance services for all state programs.
9. Encourage the Department of Human Resources to develop a pilot program to examine the feasibility of developing a statewide system of outsourced mobile units to provide services, including, without limitation, outreach, assessment, and referral services to persons with disabilities who are homeless and in crisis. The department's findings, conclusions, and recommendations should be presented to the 2005 Legislature.
10. Encourage the Task Force for the Fund for a Healthy Nevada to: (1) support programs which ensure that families providing primary care to a severely disabled family member receive respite within 90 days after applying for the respite; (2) seriously consider funding the Nevada Positive Behavioral Supports Program at a level that will at least support adequate training and service delivery to 1,500 children with autism and brain injuries, and others in need of such interventions; and (3) support programs which provide home and environmental modifications to allow persons with disabilities access to the community and the ability to return to the community from institutional care.
11. Encourage the Executive Branch to train persons who provide personal assistance to persons with autism, other pervasive developmental disabilities, and brain injury to ensure that the caregivers understand the special needs of the persons to whom they are providing services, and to ensure that the caregivers are adequately trained regarding the individual particular characteristics and special needs of the persons to whom they are providing services.

12. Encourage the Department of Human Resources, in developing a Medicaid Home and Community Based Services Waiver for Persons with Cognitive Impairments, to seriously consider the behavioral services needed by persons with brain injury, autism, and other pervasive developmental disabilities and mental illnesses to address their behavioral and independent living needs.
13. Encourage businesses to employ persons with disabilities.
14. Encourage the Executive Branch and the Legislature to expand funding to the Homeless Mentally Ill Outreach initiative, Homeless Outreach Pilot Education (HOPE) program, to implement ongoing programs providing intensive outreach and case management services, including, without limitation, immediate access to necessary medications and housing.

**REPORT TO THE 72ND SESSION OF THE NEVADA LEGISLATURE FROM THE
LEGISLATIVE COMMISSION'S INTERIM SUBCOMMITTEE
TO STUDY STATE PROGRAMS FOR PROVIDING SERVICES
TO PERSONS WITH DISABILITIES**

I. INTRODUCTION

The Legislative Commission's Subcommittee to Study State Programs for Providing Services to Persons with Disabilities was created by the Legislative Commission to study Nevada's services for the disabled. Since the 2001 Legislature passed Assembly Bill 513 that called for strategic plans in the areas of health services for the aged, the disabled, and seniors, it was an appropriate time to coordinate legislative efforts with those of the Executive Branch to formulate a single unified and cohesive plan to address the needs of the disabled in Nevada.

The Subcommittee, chaired by Senator Dina Titus and co-chaired by Senator Raymond Rawson, outlined two primary goals of the Subcommittee. The first goal was to take an inventory of all federal, state, and local services, programs, agencies and statutes that currently serve and affect the disabled community. Public and private agencies would be asked to participate and provide valuable information to the process that would otherwise not be available for the Subcommittee's consideration. Once that inventory of services was identified, a clearinghouse of information would be created to determine the best method to disseminate that information to as many people as possible.

The second goal established by the Subcommittee was to evaluate the feasibility of creating a one-stop system of services for the disabled. Realizing the reality of the state's current fiscal position, the Subcommittee noted that full implementation of a one-stop service system may not be fiscally possible at this time. However, the Subcommittee also recognized that, while full implementation of a one-stop service delivery system may not be feasible, providing at least a partial number of services and information under one roof would be beneficial to persons with disabilities.

The Legislative Commission's Subcommittee worked closely with the Department of Human Resources, which, under Assembly Bill 513, received an \$800,000 appropriation to create four long-term strategic plans concerning the health care needs of the citizens of Nevada, including a strategic plan for persons with disabilities. The Subcommittee's primary intent was to fully identify the needs of the disabled and come forth with a joint administrative plan to improve the state's delivery system for persons with disabilities.

II. BACKGROUND

The Legislative Commission's Subcommittee to Study State Programs for Providing Services to Persons with Disabilities was one of six interim study committees approved by the 2001 Legislative Commission and was based upon Senate Concurrent Resolution 32 (Appendix A), which was introduced and adopted by the 2001 Nevada Legislature's Committee on Legislative Affairs and Operations on April 11, 2001. Due to the time constraints resulting from redistricting and other critical issues of the 2001 Legislature, final passage of SCR 32 did not occur prior to adjournment of the 2001 Legislative Session. If SCR 32 had been passed by the 2001 Legislature, it would have produced a comprehensive set of recommendations that would form the foundation for redesigning the state's current delivery system of services to persons with disabilities. Even though SCR 32 was not officially adopted, the Legislative Commission determined that the issues associated with services to Nevada's disabled citizens warranted special consideration, and therefore the Commission sponsored the effort.

The Legislative Commission appointed a Subcommittee consisting of six legislators to carry out the provisions originally encompassed in SCR 32 – three Assembly representatives and three representatives from the Senate, with Senator Dina Titus serving as chairwoman.

Senator Dina Titus, Chairwoman
Senator Raymond D. Rawson
Senator Randolph J. Townsend

Assemblywoman Sharron Angle
Assemblywoman Vonne Chowning
Assemblyman Jerry D. Claborn

Legislative Counsel Bureau staff services for the subcommittee were provided by Robert Guernsey, Principal Deputy Fiscal Analyst, Fiscal Analysis Division; Jim Rodriguez, Program Analyst, Fiscal Analysis Division; Leslie Hamner, Principal Deputy Legislative Counsel, Legal Division; and Jo Rasey, Committee Secretary, Fiscal Analysis Division.

The Subcommittee worked in cooperation with the Department of Human Resources and other agencies of the Executive Branch to coordinate informational resources. The Department of Human Resources' Task Force on Disability, created as a result of passage of Assembly Bill 513 by the 2001 Legislature (Appendix B), did an excellent job in bringing many groups together and formulating a number of committees, subcommittees and task forces to involve as broad a spectrum of disability service groups as possible and to address as wide a spectrum of services as possible.

The Legislative Commission's Subcommittee held five public meetings from November 6, 2001 to September 23, 2002 and coordinated its efforts closely with those of the Task Force on Disability. Between the two, 53 public meetings, hearings and training sessions were conducted, which involved testimony from representatives from over 40 state and local government disability service-related agencies and private organizations associated with the delivery of services for persons with disabilities. The Subcommittee addressed various disability issues, including availability of services, service gaps, transportation, eligibility, housing, service accessibility, availability of information on disability services, financial assistance and funding, and recommendations for improvement to the current

system. The Task Force on Disability presented 78 recommendations to the Subcommittee aimed at resolving over 180 perceived barriers to services and information. In addition, the Department of Human Resources presented the Legislative Commission's Subcommittee with six recommendations on the *Nevada Strategic Plan for People with Disabilities* for its consideration.

During the course of the interim study, the Subcommittee reviewed information on a number of issues designed to provide a solid foundation for services to individuals with disabilities in Nevada and to provide a broad understanding of national trends in disability services and long-term care for the disabled. Specifically, the Subcommittee reviewed:

- Adherence to Olmstead and implications to states that do not provide for an adequate Olmstead plan (refer to Appendices C and D);
- Alternatives to institutionalization for long-term institutional care in Nevada;
- Models that simplify and promote a single point of entry into a state's disability service system to avoid the fragmentation of services;
- Community-based options such as the feasibility of maximizing home and community-based service programs and exploring residential alternatives to institutionalization;
- The important role of caregivers and their need for better support systems and training;
- Identification of "gaps" in services available to the disabled community; and
- Identification of housing and transportation services to the disabled community.

Assembly Bill 513 was enacted by the 2001 Legislature to complete a comprehensive review of the state's existing disability services delivery system. A.B. 513 challenged state agencies and representatives of Nevada's community of disabled persons to work together to develop a comprehensive long-term plan for disability services. Key elements of the plan included estimating existing and future service needs, recommendations to eliminate system inefficiencies in service delivery, recommendations for cost-effective and accessible systems of care, and assistance to Nevadans with disabilities in order to allow them to become as productive and self-supporting as their condition permits.

The 2001 Legislature appropriated \$800,000 to the Nevada Department of Human Resources for the development of four long-term strategic plans relating to the health care needs of the residents of Nevada. Funding was allocated as follows:

- \$100,000 to develop a Seniors Strategic Health Care Plan;
- \$150,000 to develop a Rural Health Care Plan;
- \$150,000 to develop a Strategic Plan for People with Disabilities; and
- \$400,000 to develop a Comprehensive Rate Plan for health care services in Nevada.

Four task forces were established to concentrate on each of the plan areas. The actual process of developing the *Nevada Strategic Plan for People with Disabilities* was exceptionally productive and provided an unprecedented opportunity for service consumers in the disabled community, service providers, and regulators to identify, within the current service delivery system, what works and what does not work, and to provide input as to what could be done to make the system work more efficiently, with more compassion and dignity toward the disabled community. As a result of this cooperative process, a broadly representative consensus of Nevada's disabled community has defined its overall service needs. Every possible effort was made to assure representation in the final disability plan and proposed implementation schedule included all disability groups, regardless of size or perceived significance. Also unprecedented was the consensus that was reached by all parties involved in the plan and the development of the resulting recommendations.

In Assembly Bill 513, the 2001 Legislature appropriated \$150,000 to the Department of Human Resources to prepare the *Nevada Strategic Plan for People with Disabilities* and to establish a task force of consumers, advocates, parents, and providers to guide plan development. In turn, the Task Force on Disability appointed four subcommittees, consisting of 49 additional consumers and advocates, and a technical advisory group for issues related to the Olmstead decision.

Focus groups held meetings throughout the state in 2001, and upwards of 200 consumers and advocates provided recommendations on how the plan should be developed, what should be studied, how participation of people with disabilities and families would be assured, who should conduct the study, and how the resulting plan would be monitored and outcomes reported.

Tony Records and Associates, a private firm, was hired by DHR to address issues associated with civil rights and Olmstead. Demographics of people with disabilities in Nevada were provided by the University of California, San Francisco's Disability Statistics and Research Center, and the Special Education Department of the University of Nevada, Las Vegas.

The Legislative Commission simultaneously appointed the Subcommittee to Study State Programs for Providing Services to Persons with Disabilities, which was chaired by Senator Dina Titus. The Subcommittee worked cooperatively with the Task Force on Disability in an effort to more effectively utilize available resources and to develop a more comprehensive, integrated plan that would be free of institutional biases or shortsightedness of either the Legislative or Executive Branches of government.

The Task Force on Disability and its subcommittees held 45 meetings and training sessions and three public hearings in the process of developing its plan and the resulting recommendations to the Subcommittee to Study State Programs for Providing Services to Persons with Disabilities. A major milestone of the A.B. 513 process was completion of a survey of state and community programs providing services to children and adults with disabilities. Findings from that survey laid the foundation for the Task Force's investigation and analysis for the *Nevada Strategic Plan for People with Disabilities*. General findings were as follows:

- There exists, in Nevada, a significant gap between the documented needs of people with disabilities and the services available in integrated community-based settings.
- Nevada's entire system of services for people with disabilities is grossly under-funded.
- The primary problem in Nevada is the lack of an effective overall information system for people with disabilities.
- There appears to be a potentially significant Olmstead compliance problem with regard to people with disabilities who live in institutionalized long-term care facilities.
- Reportedly, there are more than 125 Nevadans with disabilities living in out-of-state residential programs due to the lack of adequate in-state programs.
- Community-based options for Nevadans with severe disabilities, such as traumatic brain injuries or autism, appear to be extremely limited.
- Reportedly, there are 28-30 children attending out-of-state residential school programs due to a lack of in-state programs.
- It is reported that at least 158 Nevada youths in correctional facilities have a disability. A national study indicates that up to 40 percent of youths in correctional facilities have disabilities. This may be a trend or statistic related to a system with inadequate care facilities for these types of youths, rather than a case of law.
- Compliance with Olmstead is not limited to Medicaid or other federally funded programs.
- The absence of a well-managed waiting list system in Nevada presents a significant compliance and liability issue for the state with regard to Olmstead and the Americans with Disabilities Act (ADA).

III. DISCUSSION OF RECOMMENDATIONS

The findings and final recommendations of the Legislative Commission's Subcommittee to Study State Programs for Providing Services to Persons with Disabilities reflect a coordinated effort among the Executive and Legislative Branches of government, private and public service providers, as well as valuable input from members of the disabled community. The Subcommittee's primary goal was to develop a comprehensive set of short-term and long-term recommendations for changes to the state's system of providing services to persons with disabilities. Short-term recommendations would address real issues concerning the state's current disability services delivery system that could feasibly be adopted and implemented by the 2003 Legislature. Those recommendations would provide immediate relief to the users of the system, provide immediate improvements to service, and increase accessibility to information regarding the availability of disability services information. Short-term actions included consideration of recommendations for changes to system processes and procedures, changes to existing statutes or administrative code, and changes to eligibility requirements that impede public-sector and private-sector service providers from efficiently getting disability services to those who need them. All recommendations considered here would have to be measured and evaluated based on whether the recommended system change would be economically and administratively feasible to implement, given the state's current budgetary situation.

Throughout the proceedings, the Subcommittee stressed the importance of streamlining access to services for persons with disabilities to provide better coordination of services. One major recommendation considered by the Subcommittee was the concept of "one-stop shopping" or "no-wrong door" where information and referral services for persons with disabilities could be obtained in a centralized or highly integrated environment. The Subcommittee also considered the establishment of a 211 telephone line to assist citizens needing services as a great improvement over the current fragmented system.

Long-term recommendations developed by the Subcommittee addressed issues that targeted additional needed changes to statutes, possible expanded program services, new programs, consolidation of services and service organizations, and the creation of a dedicated state agency to manage and administer the state delivery system of services to persons with disabilities. The Subcommittee adopted a total of 28 recommendations that resulted in 4 bill draft requests, 6 legislative resolutions and 14 Subcommittee recommendations. All recommendations would be contingent upon available funding in any given biennium.

Subcommittee Recommendations

1. Establish an ongoing statutory legislative committee to study the state's programs for providing services to persons with disabilities.

A great deal of progress has been made in developing an action plan for the state to comply with the Olmstead decision (see Appendices C and D). If established in statute, the Legislative Committee on Persons with Disabilities would be able to work closely with the Executive Branch in a joint effort to review, evaluate and recommend

improvements to the state programs; ensure that the state is complying with the Americans with Disabilities Act (ADA) in light of the Olmstead decision; and monitor the state's progress toward implementing its Olmstead plan. The committee would also work with other levels of government, non-profit entities and private entities to strengthen the functions of planning, service delivery and quality assurances.

- 2. Require the Department of Human Resources to examine the impact of assessments of persons with disabilities, including, without limitation, any savings in costs incurred as a result of such assessments, and report the results of its examination annually to the Legislative Committee on Persons with Disabilities before July 1 in even-numbered years and before October 1 in odd-numbered years.**

The Director of the Department of Human Resources indicated this evaluation could be accomplished without additional funding. The Subcommittee concurred that an important part of a strategic plan was the need for ongoing monitoring. The strategic plan developed by the Department of Human Resources and the Task Force on Disability, which was established by A.B. 513 in the 2001 Legislature, is a ten-year plan that cannot be completed in one biennium. Ongoing monitoring would be an important function for the proposed ongoing legislative committee.

- 3. Require the Department of Human Resources to report annually to the Legislative Committee on Persons with Disabilities on the expansion of the Medicaid Buy-In Program, and on its progress toward the goal of equitably providing, by 2008, medical insurance coverage or wraparound services to all persons with disabilities who, by virtue of becoming employed, have established an income above poverty level, but cannot obtain the health care coverage and services needed to terminate reliance on public benefits. The Department of Human Resources would be required to provide this report to the Legislative Committee on Persons with Disabilities by July 1 in even-numbered years and by October 1 in odd-numbered years.**
- 4. Require the Department of Human Resources to study the development of a rider to the Medicaid budgets based on the model used in the state of Texas where the money follows the person for children and adults who have been assessed and determined to be in unnecessarily restrictive residential environments, and report the results of its study to the ongoing Legislative Committee on Persons with Disabilities.**

The Director of the Department of Human Resources felt the development of such a rider was feasible and would provide greater flexibility and program options to persons with disabilities in a non-restrictive setting.

- 5. Establish an Office of Disability Services within the Department of Human Resources. Transfer the Office of Community Based Services from the Department of Employment, Training and Rehabilitation, Rehabilitation Division, to the Department of Human Resources. The Office of Disability Services should:**

coordinate planning across systems and agencies that provide services to persons with disabilities and across disability populations; monitor the implementation of strategic planning goals; ensure compliance with the provisions of the ADA; oversee the development of a comprehensive data system that works across agencies; and ensure that state and county resources are coordinated.

The Director of the Department of Human Resources testified that in order to improve coordination and eliminate duplication of services being provided to persons with disabilities, reorganization would be needed to align service-related agencies under the Department of Human Resources and employment-related agencies under the Department of Employment, Training and Rehabilitation.

- 6. Fund, through legal services, an Office of Ombudsman Services for persons with disabilities, which will serve as a last resort for persons with disabilities to access after going through the Office of Disability Services. Appropriate \$130,000 each year to fund this office. The ombudsman will mediate issues related to integrated settings, the Americans with Disabilities Act (ADA), and Individuals with Disabilities Education Act (IDEA) that remain unresolved after other remedies have been exhausted.**

The Director of the Department of Human Resources testified in support of the need for ombudsman services for persons with disabilities. The ability of persons with disabilities to seek assistance and guidance from knowledgeable individuals was recognized as an important goal and led the Subcommittee to recommend the establishment of an ombudsman function. A description of the role of the Office of Ombudsman Services and a detailed budget as developed by the Task Force on Disability is attached as Appendix E.

- 7. Establish, develop, and fund a 211 universal access line in the state of Nevada. Ensure that this is the one system that will be used by people to obtain information on social services. Require the Department of Human Resources to assist with the development and establishment of the 211 line.**

One of the most important tools to assist persons with disabilities and their families in order to avoid the current frustration and confusion of trying to access services would be the establishment of a 211 telephone system, which was recommended by the Task Force on Disability and the Department of Human Resources. The 211 access line, or “no-wrong-door” program, would provide important information, referral and resolution assistance for persons with disabilities and their families. The proposal has the support of the United Way, which indicated a strong desire to take the lead in the 211 planning process. The establishment of a single call-in center would greatly improve the ability of disabled individuals to access services they need in the shortest period of time and would assist with a “no-wrong-door” approach to human services.

8. **Require the Department of Human Resources to establish a single eligibility application for Supplemental Security Income (SSI) and Medicaid to ensure that all eligible at-risk children and adults quickly receive the assessments and Medicaid services they need.**

The Director of the Department of Human Resources testified that under the current system, when an individual applies for SSI, the process could take several months, and once a decision is made regarding the SSI application, the individual is then required physically to apply for Medicaid. A single eligibility application process would create an automatic addition of the applicant to the Medicaid rolls, saving time for both consumers and families.

9. **Encourage the Executive Branch, in planning budgets and making decisions concerning programs associated with services for persons with disabilities, to consider persons with disabilities and services in a more holistic manner so that decisions made concerning one population or service do not occur in isolation of decisions made concerning other populations or services. This goal should not lead to a reduction in services for any disabled population.**

Representatives of the Task Force on Disability testified on the importance of an “across-the-board” review by the Executive Branch regarding the determination of the need for a particular service, taking into account all who need the service prior to decisions concerning programs associated with a service.

10. **Encourage the Executive Branch to revise current guidelines and requirements, with consideration for budgetary provisions for needed disability services, to include persons with disabilities and their families whose incomes exceed current guidelines, when planning budgets and in making decisions concerning programs associated with services of persons with disabilities. Current regulations and policies prohibit budgetary provisions for person with disabilities and their families whose incomes exceed current guidelines and limitations, regardless of the identified need for services. Without such services, undue economic and emotional hardship would fall upon these families.**

In testimony before the Subcommittee, representatives of the Task Force on Disability indicated this recommendation was aimed at people who were not the “poorest of the poor.” The recommendation would target people who had continuously worked and then become disabled, as well as the children whose families were working and had always worked and, because of the length of time employed or because of family employment, were included in the range just above Medicaid or waiver service eligibility. The Task Force discovered that many of these individuals with disabilities and families of individuals with disabilities became impoverished and eventually qualified for Medicaid assistance because they had virtually lost everything. At that point, many such people are placed in institutional care, which could be avoided if they had been given the option of

personal assistance. Most of these people would not need Medicaid if a program existed to keep them from becoming impoverished.

- 11. Recognize the long-term strategic plan developed pursuant to Assembly Bill 513 from the 2001 Session as Nevada's Olmstead plan for persons with disabilities. The Nevada plan is to comply with Title II of the ADA in light of Olmstead. Also, recognize the need for the Department of Human Resources to monitor, review and revise the plan as necessary to ensure that the state of Nevada complies with the Americans with Disabilities Act (ADA).**

It was brought to the Subcommittee's attention that on June 22, 1999, the United States Supreme Court held in Olmstead v. L.C. that the unnecessary segregation of individuals with disabilities in institutions may constitute discrimination based on disability. The Court ruled that the Americans with Disabilities Act may require states to provide community-based services for people with disabilities, who would otherwise be entitled to institutional services, when: (1) the state's treatment professionals reasonably determine that such placement is appropriate; (2) the affected person does not oppose such treatment; and (3) the placement can be reasonably accommodated, taking into account the resources available to the state and the needs of others who are receiving services.

Recognizing the need to be in compliance with the criteria laid down in the Olmstead decision regarding Nevada's services to persons with disabilities, the Department of Human Resources recommended to the Subcommittee that the *Nevada Strategic Plan for People with Disabilities* that was developed by the Task Force on Disability be recognized as Nevada's Olmstead plan.

- 12. Encourage the Executive Branch to identify and transfer persons who are in institutional care who can be served in the community to the community if the persons do not oppose such transfer. This should include appropriate discharge planning, transitional supports and targeted services coordination. Also, encourage the Executive Branch to identify persons who are at risk of being improperly institutionalized and take action to prevent people from being improperly institutionalized. The department should report to the Legislature, before the 2005 Session, the results of its efforts to transfer or divert persons with disabilities from institutions to community settings.**

It was pointed out to the Subcommittee that this is one of the most important recommendations with regard to Nevada's compliance with the Olmstead decision. The need to develop alternative placements for persons with disabilities from institutional care into a community setting was recognized as an important element in treating people in the most appropriate setting. When people with disabilities are given an alternative placement option, it can lead to an improved quality of life and may be a less costly and more appropriate option.

13. **State that the Legislature, when considering legislation that will impact children or adults with disabilities, recognizes the importance of considering the potential effects of the legislation on the lives of such persons, including, without limitation, their ability to access services.**

The Subcommittee felt it was important to consider the needs of those impacted by proposed legislation and to receive input on proposed legislation from persons with disabilities to ensure the best results are achieved.

14. **Encourage the Governor to consider funding for programs that provide critical health, mental health, nutritional and personal assistance services to children and adults with disabilities, poor children, and frail seniors, as a high priority to the extent reasonably possible during times of budget shortfalls.**

At times of budget shortfalls, the Subcommittee felt it was extremely important to ensure that needed services continue to be provided to persons with disabilities and that, whenever possible, those services be given the highest priority to minimize the possibility of budget cuts.

15. **Ensure that persons with disabilities are involved in the process of developing policies concerning services provided by the state to persons with disabilities, and in monitoring programs that provide such services.**

This recommendation to the Subcommittee from the Department of Human Resources recognizes that the people closest to the problems related to persons with disabilities need to be included in discussions regarding the disabled individual's needs and the best way to address those needs.

16. **Support the collection of accurate and meaningful data for planning, budgeting, measuring and monitoring services provided to persons with disabilities.**

The Department of Human Resources' recommendation on the importance of accurate data to assist decision makers in evaluating services for persons with disabilities in the allocation of limited resources was supported by the Subcommittee.

17. **Encourage the Executive Branch to establish budgetary policies ensuring, within the limits of available funding, that adequate and continued funding is made available for services to persons with disabilities to reduce waiting lists and ensure that waiting lists move at a reasonable pace. The Legislative Commission's Subcommittee to Study Programs for Providing Services to Persons with Disabilities would encourage establishing a target goal of a maximum of 90 days, subject to available funding, for waiting lists associated with services critical to community integration, medication clinics and treatment for mental illness, home and community based services (HCBS), and personal assistance for children and adults with disabilities.**

Both the Department of Human Resources and the Task Force on Disability recognized that it is important that the state make reasonable efforts to reduce waiting lists within available resources. This recommendation addresses the needs of people who require services and recognizes that advancement on waiting lists is one of the elements to ensure compliance with the Olmstead decision.

- 18. Encourage the Executive Branch to work toward the state of Nevada funding all long-term care services provided to Medicaid eligible persons in nursing facilities, instead of the county funding 50 percent and the state funding 50 percent of the services, to eliminate any bias or perceived bias of the state for institutionalizing persons.**

This was a recommendation put forward by the Task Force on Disability, which felt the state should work toward eliminating any bias or perceived bias as a result of 50 percent match funding in nursing homes.

- 19. Encourage the Executive Branch to develop, as part of the state of Nevada's Olmstead plan, quality assurance measures in all state programs that provide services to persons with disabilities, and ensure that persons with disabilities are involved in the development and implementation of such measures.**

The Task Force on Disability recommended, and the Subcommittee agreed, that the development of quality assurance measures should be an important part of the Olmstead plan. The Subcommittee concurred that the plan could be developed by the end of calendar year 2003.

- 20. Encourage the Board of Regents of the University and Community College System of Nevada to provide programs for persons with disabilities that are accessible to such persons, including, without limitation, an AA degree in independent living and non-degree courses for such persons with disabilities.**

This recommendation from the Task Force on Disability was put forward with two goals in mind: (1) to encourage the Board of Regents of the University and Community College System of Nevada to offer programs to persons with disabilities to achieve an AA degree in independent living; and (2) to make postsecondary education options available to persons with disabilities who were in non-degree programs, similar to interest courses available at the community college level.

- 21. Encourage the state of Nevada and counties and other local governments in the state to work with persons with disabilities and the Nevada Association of Counties (NACO) to ensure that buildings are accessible to persons with disabilities, including, without limitation, ensuring that housing is accessible in all counties of the state, and that the state and local governmental entities are in compliance with the ADA and other relevant federal and state laws.**

The Subcommittee received testimony concerning problems with building codes in rural Nevada counties. NACO indicated it would assist with compliance with ADA and federal and state laws to assist persons with disabilities.

22. Encourage the Executive Branch and the Legislature to establish appropriate provider rates for personal assistance services for all state programs.

The Subcommittee acknowledged that in order to ensure quality care, it is important that fair and appropriate rates for providers and personal care attendants be established and maintained. The ability of a person with disabilities to be able to live a quality life in the community with the assistance of a personal care attendant is an important goal, both for the disabled individual and the state of Nevada.

23. Encourage the Department of Human Resources to develop a pilot program to examine the feasibility of developing a statewide system of outsourced mobile units to provide services, including, without limitation, outreach, assessment, and referral services to persons with disabilities who are homeless and in crisis. The department's findings, conclusions, and recommendations should be presented to the 2005 Legislature.

The Subcommittee recognized that not all people in need of services have the ability or means to access needed services. At times, the use of mobile outreach units may provide the best or only option to assist disabled people in need of necessary services. The Subcommittee recommends that the Department of Human Resources develop a pilot program to examine the feasibility of developing mobile-outreach units and that the department report its findings to the 2005 Legislature.

24. Encourage the Task Force for the Fund for a Healthy Nevada to: (1) support programs which ensure that families providing primary care to a severely disabled family member receive respite within 90 days after applying for the respite; (2) seriously consider funding the Nevada Positive Behavioral Supports Program at a level that will at least support adequate training and service delivery to 1,500 children with autism and brain injuries, and others in need of such interventions; and (3) support programs which provide home and environmental modifications to allow persons with disabilities access to the community and the ability to return to the community from institutional care.

This recommendation was brought forward by the Task Force on Disability, which is asking the Task Force for the Fund for a Healthy Nevada to consider using the funds to support services for persons with disabilities.

25. Encourage the Executive Branch to train persons who provide personal assistance to persons with autism, other pervasive developmental disabilities and brain injuries to ensure that the caregivers will understand the special needs of the persons to whom they are providing services and to ensure that the caregivers are adequately

trained regarding the individual particular characteristics and special needs of the persons to whom they are providing services.

It was indicated to the Subcommittee that disabled individuals with autism, other developmental disabilities and brain injuries have special needs and require a consistent and predictable environment. These disabled people have need of caregivers who understand and are trained in their special needs.

- 26. Encourage the Department of Human Resources, in developing a Medicaid Home and Community Based Services (HCBS) Waiver for Persons with Cognitive Impairments, to consider seriously the behavioral services needed by persons with brain injury, autism, and other pervasive developmental disabilities and mental illnesses to address their behavioral and independent living needs.**

It was pointed out to the Subcommittee that disabilities such as brain injury, autism, and other developmental disabilities were not included in any other waiver programs. The Department of Human Resources indicated it would examine the current waiver program and decide whether it would be best to develop a new waiver, expand an existing waiver, or develop multiple waivers regarding these impairments. An explanation of the HCBS Waiver for Persons with Cognitive Impairments is included as Appendix F.

- 27. Encourage businesses to employ persons with disabilities.**

The ability to access federal funding to provide services to persons with disabilities in the least restrictive setting and to encourage and assist those individuals, when possible, to seek and maintain employment is an important goal to improve a person's life. The employers in Nevada who assist persons with disabilities in employment opportunities are a credit to the state of Nevada, and their endeavors need to be recognized and encouraged, as these efforts go a long way in assisting people with disabilities to live productive lives in a community setting. The Subcommittee recognized the efforts of Nevada's employers to employ persons with disabilities. The Subcommittee felt it was extremely important to continue to encourage the expansion of employment opportunities for persons with disabilities in Nevada.

- 28. Encourage the Executive Branch and the Legislature to expand funding to the Homeless Mentally Ill Outreach initiative (Homeless Outreach Pilot Education - HOPE) program to implement ongoing programs providing intensive outreach and case management services, including, without limitation, immediate access to necessary medications and housing.**

The need for services for the homeless was an important recommendation from the Task Force on Disability. The Subcommittee recognized the needs of the homeless population for services such as housing, medications and case management, and is encouraging programs that provide these necessary services and expansion of such programs when possible.

IV. ISSUES REQUIRING ADDITIONAL STUDY

Although a number of significant issues and recommendations were addressed by the Legislative Commission's Subcommittee to Study State Programs for Providing Services to Persons with Disabilities over the span of its five meetings, the Subcommittee, as well as many of the participants and presenters, felt that several issues and identified needs still needed further examination and that the Subcommittee should be continued to look at those issues. Additional study is needed in these areas in order to evaluate the overall effectiveness of Nevada's short-term and long-term disability service system and to make recommendations to further improve the system. Continuation of the Subcommittee would also provide an effective mechanism to allow for establishing advisory committees made up of subject matter experts to assist the subcommittee, if needed, in carrying out its assigned mandates, much like the system of investigation the Task Force on Disability employed in its effort to develop the *Strategic Health Care Plan for People with Disabilities*.

Based on testimony provided to the Subcommittee from the various participants and presenters, and based on the recommendations finally adopted by the Subcommittee, the following are major subject areas that the Subcommittee may concentrate on in the coming interim:

- Transportation services;
- Housing information and services;
- Integrated single eligibility processing and qualification requirements;
- Additional funding for new or expanded programs;
- Development of an integrated data collection and analysis system;
- Accessibility to secondary education for persons with disabilities;
- Waiting lists;
- Medicaid home and community-based services waiver program; and
- Mobile outreach programs.

One of the major considerations in continuing the study of state services for persons with disabilities should be cost. The cost of an interim study typically includes the salary, travel and operating support costs for the legislators assigned to the subcommittee and staff costs that are already included in the Legislative Counsel Bureau's budget. The budget approved by the Legislative Commission for the Subcommittee to Study State Programs for Providing Services to Persons with Disabilities was \$5,000. In continuing the Subcommittee, the Legislative Commission should consider additional funding for consultant support to provide research, analysis and guidance to the Subcommittee on the complex and technical areas that may be part of the mission for an ongoing study. A consultant working on the Subcommittee's behalf would be an independent subject matter expert and would be intimately knowledgeable of the national trends on the issues to be considered. The use of a consultant, or consultants, would serve as a valuable resource, not only to the legislators assigned to the study, but also to members of the advisory committee, or committees, that the Subcommittee may choose to appoint to the study.

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