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MEMORANDUM OF UNDERSTANDING
AMONG THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES,
AND THE NATIONAL PROGRAM OFFICE ON SELF-DETERMINATION,
A PROJECT OF THE ROBERT WOOD JOHNSON FOUNDATION AT THE
INSTITUTE ON DISABILITY, UNIVERSITY OF NEW HAMPSHIRE

Preamble

On June 22, 1999, the United States Supreme Court decided *Olmstead v. L.C.*, holding that under Title II of the Americans with Disabilities Act, 42 U.S.C. §12132, "States are required to provide community-based treatment for persons with mental disabilities when the State's treatment professionals determine that such placement is appropriate, the affected persons do not oppose such treatment, and the placement can be reasonably accommodated, taking into account the resources available to the State and the needs of others with mental disabilities." 119 S. Ct. 2176, 2190 (1999).

Olmstead has prompted a nationwide reexamination of the institutionalization of individuals with disabilities. Federal, state, and local governments, as well as private sector entities, are examining how the movement of individuals with disabilities from nursing homes and other institutional settings to community living can be facilitated.

On the federal level, the Departments of Housing and Urban Development (HUD) and Health and Human Services (HHS) hereby enter into this memorandum of understanding (MOU) to create a coordinated response to *Olmstead*, ~~to be implemented in conjunction with~~ that will complement activities conducted by the National Program Office on Self-Determination, a

project of the Robert Wood Johnson Foundation at the Institute on Disability, a University Affiliated Program, University of New Hampshire (NPOSD). This unique public/private partnership, entitled Access Housing 2000, will focus on expanding the availability of accessible, affordable housing, including home-ownership opportunities, ~~supporting the use of individual development accounts (IDAs) for low to moderate income individuals with disabilities and their families,~~ and assuring that individuals with disabilities receive the personal assistance and support necessary to make a smooth and successful transition to living in the community.

attached
- in
velaw

Each party to this agreement commits to bring available resources to this effort, detailed below, and to work in cooperation to identify further resources, both public and private, that may be brought to bear for this effort. The parties to this agreement hope that Access Housing 2000 will inspire States and communities to increase their own efforts in this regard.

I. National Demonstration Project

The parties will ~~launch~~ develop and implement a five-year national demonstration project ~~to create a model for facilitating~~ that will serve as a model for using existing federal authority and appropriations to facilitate the transition from institutional settings to community living for individuals with disabilities. This demonstration project will begin with approximately 400 beneficiaries residing in targeted regions, with a goal, depending upon available resources, of reaching 2000 beneficiaries at full implementation of the demonstration. Participants will include individuals with disabilities who have very low incomes and who currently reside in nursing homes, state institutions, Intermediate Care Facilities for the Mentally Retarded, group homes, their parents' homes, and other community-based residential programs. It is a goal of the parties that the Demonstration Project reach a broad geographic sweep, with a target of up to

forty states and territories at full implementation, with a goal of approximately fifty beneficiaries per state or territory.

A. Demonstration Section 8 Voucher Targeting: HUD will make available through its funding award process 400 Section 8 vouchers targeted for use by individuals with disabilities and families of children with disabilities who currently reside in nursing homes or institutions in select States. These vouchers will be administered by public housing authorities (PHAs) and be used to rent or eventually own accessible and affordable homes. HUD will seek to identify resources in future project years to reach full implementation. ~~As an additional tool, HUD expects soon to finalize a proposed rule that would allow Section 8 voucher holders to become homeowners.~~

B. Individual Development Accounts: HHS will work with other public and private agencies and foundations to identify ~~and actively pursue~~ strategies for enabling individuals with disabilities and their families to establish Individual Development Accounts. ~~HHS, working in conjunction with others, will seek to develop and fund a specific strategy for integrating the use of IDAs by participants in Access Housing 2000 by the beginning of its second year. These savings accounts may be used for homeownership, post-secondary education, purchasing assisted technology, modifying homes or residences as necessary, and capitalization of small businesses.~~ Under the Assets for Independence Act IDA demonstration program, these accounts are currently used to help low-income working individuals and families save for home ownership, post-secondary education, and capitalization of small businesses, and the President has proposed also allowing them to be used to save for a car needed to get or keep a job.

C. Nursing Home Transition Grants: Subject to appropriations, HHS will issue a Request for Proposals at the beginning of Fiscal Year 2001 to award ~~\$2 million in~~ Nursing Home

Transition Demonstration Grants to incorporate and advance the major features of Access Housing 2000. These grants will focus on assuring that persons leaving nursing homes will have adequate personal assistance services and support to meet their needs. Also, HHS will encourage States receiving Nursing Home Transition Grants as well as Medicaid programs in other States to work with HUD and local PHAs to facilitate the use of the demonstration's Section 8 vouchers by individuals leaving institutions.

D. The Ticket to Work and Work Incentives Improvement Act (TWWIIA): ~~HHS will permit and encourage States receiving~~ While grant solicitations for TWWIIA Infrastructure Development Grants ~~to use a portion of the funds to work with these agencies~~ have already been issued, HHS will permit and encourage grantees to work with HUD, local PHAs, and others to highlight the uses of Section 8 vouchers and otherwise expand housing options, including home ownership, and savings opportunities for employed individuals with disabilities. HHS will encourage first round TWWIIA Infrastructure Development Grantees, which will be announced in the Fall of 2000, to focus a portion of their time and efforts on housing issues related to the employment of individuals with disabilities. HHS will build more explicit linkages to Access Housing 2000 into future grant solicitations.

E. Outreach and Local Coalition-Building: HHS will work closely with HUD and NPOSD in targeted regions to inform state Medicaid directors, directors of state mental health, developmental disabilities and rehabilitation agencies, PHAs, and disability groups about the availability of the demonstration vouchers. This will be done through meetings, conferences, existing technical assistance vehicles, and joint announcements. NPOSD will focus on creating local coalitions to build ground-level support for the initiative and to assist in its implementation.

F. Technical Assistance Exchange: Subject to appropriations, HUD and HHS will fund a technical assistance exchange to assist States, PHAs, and others to help people with disabilities rent or own homes, establish IDAs, and control the services they receive. HHS will ensure coordination with other existing *Olmstead*-related technical assistance efforts. HUD will also conduct more general outreach to PHAs regarding participation in voucher programs for individuals with disabilities. The initial funding for this TA exchange will be \$1,000,000, with \$500,000 from FY2001 HUD funds and \$500,000 from HHS FY2001 funds. HUD and HHS will seek resources to continue to fund this component at \$500,000 each annually for five years.

G. Evaluation: NPOSD will evaluate the efficacy of the strategies developed during the demonstration project and disseminate best practices. Additionally, the parties will seek to fund an independent evaluation of the demonstration project.

II. National and State Coalition Building

In addition to the local coalition-building undertaken in conjunction with the demonstration project, HUD, HHS, and NPOSD will reach out to possible national, State, and local partners to engage a wide range of resources in the effort to facilitate the transition from nursing homes and other institutional settings to community living. The parties recognize that there are many creative and effective ways for other public and private partners to ~~reach~~ further the goals of Access Housing 2000, and the parties commit to helping to access resources to bear to advance the goals of the initiative.

A. Federal Collaboration: HUD and HHS will ~~convene a staff-level working group to~~ reach out to other Federal agencies to seek their participation in the work of Access Housing 2000. This outreach will focus on, but not be limited to, the Social Security Administration, the

Department of Labor, the Department of Transportation, the Rehabilitative Services

Administration, the National Institute on Disability and Rehabilitation Research, the Small Business Administration, the Community Development Refinancing Corporation, and others.

B. Other National and State Partners: HUD, HHS, and NPOSD will reach out to States, State Medicaid Directors, PHAs, the disability community, foundations and other key stakeholders to seek participation in the work of Access Housing 2000 in facilitating the movement of individuals residing in nursing homes and institutions into their own homes and apartments in the community.

III. Research and Policy Analysis

A. Research: NPOSD will conduct qualitative and quantitative research that examines the process for, benefits of, and barriers to the implementation and accomplishment of the objectives of Access Housing 2000.

B. Policy Analysis: NPOSD will prepare an analysis of Federal and State policy affecting the implementation of this initiative. The analysis will address disincentives, especially as they relate to the movement of individuals residing in nursing homes and institutions into their own homes and apartments in the community, personal assistance services, and the establishment of IDAs.

IV. Agreement

This MOU will become effective upon the date of the last signature on this document.

The parties agree to confer on the interpretation and implementation of the MOU as necessary and to conduct periodic reviews of its operation.

All initiatives to be undertaken by the parties to the MOU will be undertaken in accordance with applicable laws and regulations.

This MOU is not intended to create judicially enforceable rights to specific government benefits or resources. It is intended to set forth a framework for joint action toward common goals.

This MOU constitutes the complete agreement between the parties.

ANDREW CUOMO

Secretary of Housing
and Urban Development

DONNA SHALALA

Secretary of Health and
Human Services

JAN NISBET

Director of the Institute
on Disability

DATE

DATE

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Andrea Kane

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To: Nestor_M._Davidson@HUD.GOV @ inet
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Subject: MOU

Hi - I don't think we've met but I work at DPC with Eric. I've talked to Becky about the IDA piece of the Access Housing MOU and it sounds like HHS agreed that IDAs needed to be scaled back a bit. There are too many issues that we don't have time to address by next week. I've proposed alternative language and forwarded it to Lisa Brown and Michele Aronowitz that reflects what we could live with in the MOU. I believe this essentially reflects the direction HHS (and HUD?) was comfortable with.

P. 2, 1st graph: strike the clause about IDAs here since we want to downplay.

P. 3, A. Drop last sentence since this rule is still in clearance.

P. 3, B. Revise IDA paragraph as follows: HHS will work with other public and private agencies and foundations to identify strategies for enabling individuals with disabilities and their families to establish Individual Development Accounts. Under the Assets for Independence Act IDA demonstration program, these accounts are currently used to help a low-income individuals and families save for homeownership, post-secondary education, and capitalization of small business, and the President has proposed also allowing them to be used to save for a car needed to get or keep a job.

**RECOMMENDATIONS FOR THE PROPOSED INITIATIVE:
ACCESS HOUSING 2000**

*Very interested in
Sec 8 homeownership
rule -
we need to work
more issues*

In response to the Olmstead decision, a proactive initiative that includes a comprehensive and systematic demonstration, technical assistance, policy analysis, and research agenda should be implemented. The initiative is essential to increase the opportunities for economic and community equity by expanding the availability of accessible, affordable housing, home ownership opportunities, and Individual Development Accounts (IDAs) for people with disabilities and their families.

Background: As a federal response to the Olmstead decision, Access Housing 2000 would be a partnership between HUD, HHS, and other agencies as appropriate, aimed at assisting individuals with disabilities to move from nursing homes and other institutions into the community.

This would be accomplished by improving and expanding the availability of accessible, affordable housing, including home ownership opportunities, supporting the use of individual development accounts for low to moderate income individuals with disabilities and their families, and an array of personal assistance and supports necessary to make a smooth and successful transition to living in the community.

HUD and HHS would launch this targeted initiative by:

- Supporting a set-aside by HHS or other public and private organizations of matching money, administrative costs, and research to provide opportunities for 2000 participants in 40 States to establish IDAs. Allowable uses of these savings accounts will include homeownership, post-secondary education, acquisition of technology, making necessary modifications to a home or residence and capitalization of small businesses. *has some disability language in Santorum/Reblomson*
- Supporting a set-aside of 2000 Section 8 certificates by HUD or public housing authorities for use by people with disabilities and families of children with disabilities who currently reside in nursing homes or institutions in select States to rent, lease or purchase accessible and affordable homes and residences. *Found that people with disabilities aren't using AFTRA - did a study*

- Funding a technical assistance exchange that will focus on demonstration, policy analysis, and research at \$750,000-1,000,000 a year for 5 years to assist States and others to support people with disabilities to rent or own homes, establish IDA's, and control the services they receive.

- Collaborating with the Robert Wood Johnson National Program Office who will work in partnership with American Disabled for Attendant Programs Today (ADAPT); National Council on Independent Living (NCIL); World Institute on Disability (WID); and Corporation for Enterprise Development (CFED), and others to carry out this initiative.

*Set up
into a
Bureau
& HHS*

*need to check
with HUD whether
they have
authority*

- Encouraging other Federal agencies, Fannie Mae, States, the disability community, foundations and others to make specific contributions to the work of Access Housing 2000, especially as it relates to the movement of individuals residing in nursing homes and institutions into community homes and apartments.
- Working with Fannie Mae, Federal Home Loan Banks, and Housing Finance Agencies to provide flexible underwriting criteria; mortgage loans; rehabilitation loans; reduced interest rates; and soft-second loans for down payment, closing cost, and rehabilitation assistance.
- Directing States receiving nursing home transition grants to work with HUD, State and local housing agencies and others to facilitate the use of Section 8 vouchers by individuals leaving institutions.
- Expressly permitting and encouraging States receiving WIIA infrastructure development grants to use a portion of the funds to work with these agencies and others to highlight the uses of Section 8 vouchers and otherwise expand housing, home ownership, and savings opportunities for employed individuals with disabilities.
- Urging State Medicaid Directors and other key stakeholders to tap into the initiative.