



**NEVADA DISABILITY
ADVOCACY & LAW CENTER**

NEVADA'S PROTECTION & ADVOCACY SYSTEM FOR INDIVIDUALS WITH DISABILITIES

Subcommittee to Conduct a Study of Postacute Care

November 17, 2015

**Discussion Concerning Alternatives to Institutionalization for Postacute Care
Services and the Effects on the Quality of Life of Persons Receiving Such
Services**

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Nevada Disability Advocacy & Law Center

The Nevada Disability Advocacy & Law Center (NDALC) is a private, statewide non-profit organization that serves as Nevada's federally-mandated protection and advocacy system for human, legal, and service rights for individuals with disabilities. NDALC is authorized to provide protection and advocacy services for Nevadans who have mental, Intellectual, and/or physical disabilities pursuant to the Protection and Advocacy for Individuals with Mental Illness Act, 42 U.S.C. §10801, *et seq.*, the Developmental Disabilities Assistance and Bill of Rights Act of 2000, 42 U.S.C. §15041, *et seq.*, and other enabling statutes. NDALC advocates for community based services and supports for persons with disabilities in order that they may live in most integrated setting possible.

In order for many seniors and disabled Nevadans to live in and remain in the community, long term services and supports, such as those provided through Nevada Medicaid's Home and Community Based Waivers, are necessary. Through these waivers, Nevada recognizes that many individuals at risk of being placed in facilities can be cared for in their homes and communities, preserving their independence and ties to family and friends at a cost no higher than that of institutional care. Waiver services and supports include but are not limited to, case management services, residential support services, homemaker services, personal care services for assistance with activities of daily living, adult day health services, respite care for primary care givers, residential habilitation services, prevocational services, nutrition counseling and career planning. Without these services in place, these individuals would be unnecessarily institutionalized in facilities throughout Nevada or in out-of-state facilities in Utah, Idaho or California.

Unfortunately, there are no waiver slots available this fiscal year for individuals with intellectual disabilities. This has resulted in individuals being unnecessarily institutionalized in violation of the integration mandate of the Americans with Disabilities Act which requires public entities to “administer services, programs, and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities.” 28 C.F.R. § 35.130(d).

For example, NDALC was recently contacted by DB, a 39 year old African- American female with cerebral palsy who has lived in a nursing home in Las Vegas for the past several years. DB came to Las Vegas to live with relatives and she ended up in a nursing home after a hospitalization due to medical issues. DB ‘s mobility is impaired and she needs help transferring in and out of bed. She uses a wheelchair. DB was determined eligible for services from Desert Regional Center after advocacy intervention by NDALC. DB would like to live in a less restrictive setting such as supervised living arrangement with peers of similar age. In response to repeated requests by DB over the last year to live in a less restrictive setting in the community, her DRC service coordinator has informed her that there is no funding available for any community placement options except in “emergency situations”. NDALC was also told the same thing by administrators with the Division of Aging and Disability Services after NDALC’s attorneys and advocates inquired about community placement options.

Nevada’s target for an effectively moving wait list to meet Olmstead compliance is 90 days. According to the Division’s own statistics as of September 2015 there was a waiting list of 732 for the ID waiver; as of 10/30/2015 six Priority 2 clients and 75 clients in Priority 3 status have been waiting over 90 days for the physical disabilities waiver. For the frail elderly waiver, 43 are pending and 71 are in process waiting for a slot.