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DEPT. OF HEALTH AND HUMAN SERVICES

Pete Ricketts, Governor

December 15, 2018

Patrick J. O'Donnell
Clerk of the Nebraska Legislature
Room 2018, Nebraska State Capitol
P.O. Box 94604
Lincoln, NE 68509-4604

Dear Mr. O'Donnell:

Nebraska Revised Statute §81-6,121-122 requires the Department of Health and Human Services to provide the completed strategic plan for providing services to qualified persons with disabilities in the most integrated community-based settings pursuant to the Olmstead decision to the Legislature and the Governor by December 15, 2018.

The report on the progress of the Department to complete a comprehensive strategic plan is attached.

Sincerely,

Bo Botelho
Interim Chief Executive Officer

CC: Governor Pete Ricketts
Members of Health and Human Services Committee, Nebraska Legislature
Members of Government, Military, and Veterans Affairs Committee, Nebraska Legislature

State of Nebraska Olmstead Strategic Plan

Background

On June 22, 1999, the United States Supreme Court held in *Olmstead v. L.C.* that unjustified segregation of persons with disabilities constitutes discrimination in violation of Title II of the Americans with Disabilities Act. The Court held that public entities must provide community-based services to persons with disabilities when: (1) such services are appropriate; (2) the affected persons do not oppose community-based treatment; and (3) community-based services can be reasonably accommodated, taking into account the resources available to the public entity and the needs of others who are receiving disability services from the entity.

The Supreme Court explained that the ruling "reflects two evident judgments." Firstly, "institutional placement of persons who can handle and benefit from community settings perpetuates unwarranted assumptions that persons so isolated are incapable of or unworthy of participating in community life," and secondly "confinement in an institution severely diminishes the everyday life activities of individuals, including family relations, social contacts, work options, economic independence, educational advancement, and cultural enrichment."

Nebraska Revised Statute §81-6,121-122 (LB1033, passed in 2016) requires the Department of Health and Human Services (Department) to: (a) convene a team consisting of persons from each of the six[1] Divisions of the Department to assess components of the strategic plan which may be in development; (b) consult with other state agencies that administer programs serving persons with disabilities; (c) appoint and convene a stakeholder advisory committee to assist in the review and development of the strategic plan; (d) determine the need for a consultant to assist with the development of the strategic plan; (e) provide a preliminary progress report to the Legislature and the Governor by December 15, 2016, which includes, but is not limited to' (i) the components of the strategic plan which may be in development and (ii) the department's recommendation on hiring a consultant; (f) provide a second progress report to the Legislature and the Governor by December 15, 2017; and (g) provide the completed strategic plan for providing services to qualified persons with disabilities in the most integrated community-based settings pursuant to the Olmstead decision to the Legislature and the Governor by December 15, 2018. Funding was never appropriated for this purpose.

Progress to Date

The Department convened a team consisting of persons from each of the Department's Divisions to assess strategic components currently in development and initiatives which would address the Federal Court's mandates. A comprehensive list of Department of Health and Human Services Initiatives and Programs was submitted with the December 15, 2016 preliminary progress report. This report also included a recommendation by the Department to hire a consultant to facilitate stakeholder engagement and develop the strategic plan. Funding was never appropriated for a consultant.

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[1] Since the passage of LB1033, the Division of Veterans Homes has become the Nebraska Department of Veteran Affairs.

The Department established the Disability Services Olmstead Planning Steering Committee, consisting of Department senior leadership, and assembled the Disability Services Stakeholder Olmstead Planning Advisory Committee with appointments that represent other state agencies that administer programs serving persons with disabilities and representation, as required in §81-6,121-122. The Committee has met four times since September 2016, with the next scheduled meeting to take place in January 2019.

The Department, in collaboration with the Disability Services Stakeholder Olmstead Planning Advisory Committee, drafted a Request for Information (RFI) for the purpose of gathering information from experienced firms or independent consultants with specialized knowledge, education, skills, and experience to assist the Department in issuing a Request for Proposals (RFP) for consultation services to develop a comprehensive strategic plan in compliance with the conditions of Nebraska statute.

The RFI was released October 19, 2017. RFI responses were opened December 5, 2017. The Department received one response to the RFI, Technical Assistance Collaborative (TAC). The Department's second progress report, dated December 15, 2017, included TAC's response which indicated the time to facilitate the planning process and prepare a written plan for Nebraska to adopt would cost approximately $125,000 to $150,000 for a 6-8 month process. The Department was unable to proceed with the RFP due to lack of funds appropriated for this purpose.

In January 2018, Senator Walz introduced Legislative Bill (LB) 800. This bill proposed to change provisions of State Statute 81-6,112, in order to establish a comprehensive Olmstead Plan to meet the integration mandate under the Americans with Disabilities Act and pursuant to the U.S. Supreme Court's *Olmstead v. L.C.* decision. The bill listed specific imperatives that were to be included in the Olmstead plan and required that the Department hire a consultant to assist with the development of the strategic plan. LB800 also changed the required completion date of the plan from December 15, 2018 to December 15, 2019. This bill was not voted out of the Health and Human Services Committee and it was indefinitely postponed on April 18, 2018. Funding was not appropriated for a consultant.

On July 6, 2018, the Department was notified the Nebraska Developmental Disabilities Planning Council earmarked $127,000 federal fiscal funds to assist the Department with hiring a consultant.

July 22, 2018, the Department entered into a contract with Technical Assistance Collaborative (TAC) consulting services for a total not to exceed $147,225 for the development of the Nebraska Olmstead Plan in an effort to meet the December 15, 2018 deadline for plan submission to the Governor and Legislature by December 15, 2018. TAC did indicate in the December, 2017 proposal, based on their experience, the ability to produce a plan sufficient to meet federal requirements in such a short time would be contingent and dependent upon timely stakeholder engagement, response and availability of onsite meetings.

TAC completed most of Phase I (with the exception of analyzing any data yet to be provided by stakeholders), a system scan and analysis, needed to develop a general baseline of the services, housing, and other factors necessary to enable people with disabilities to live in integrated community-based settings prior to the first round of on-site stakeholder engagement in August 2018.

TAC has conducted four on-site visits which included: meeting with DHHS Steering Committee, Disability Services Stakeholder Olmstead Planning Advisory Committee, Governor's Policy Research Office, DHHS interim CEO, and Divisional team members; six listening sessions; and in-person and telephonic interviews with more than 35 stakeholders. TAC currently has additional interviews scheduled with stakeholders.

Current State

TAC has identified areas of state progress in supporting individuals to live, work, and be served in their communities. TAC has also identified gaps, barriers, and areas of vulnerability that diminish opportunities for community integration. In addition, a document of Stakeholder Listening Themes has been developed and will be used to formulate recommendations and strategies. A Nebraska Olmstead Plan Framework draft was provided by TAC to the Department and Disability Services Stakeholder Olmstead Planning Advisory Committee on December 7, 2018 for feedback. TAC has not yet had the opportunity to fully complete Phase II, which includes engagement with all key stakeholders necessary to contribute to the plan development. Ultimately TAC will require input and engagement from all levels of state government, especially political sub divisions, such as municipalities, school districts and service regions.

The Department is preparing an amendment for TAC to extend the contract beyond December 31, 2018, maximum duration allowed by law, to continue plan development. The contract amendment will result in a reallocation of dollars within Phase II and III. The amendment will also modify the timeline and the final delivery of a guidance document, which will contain recommended components for inclusion in a Nebraska plan.

The Olmstead Advisory Committee requested a contract proposal from TAC for a timeline and estimated cost to complete a final comprehensive plan which would include and likely require commitment from all levels of government and political sub-divisions with agreed upon goals, strategies, and measures of implementation. TAC provided a proposal recommending a contract with a cost of $37,200 for a plan deliverable timeline through June 30, 2019.

Recommendations

It is the ethical and legal responsibility of all levels of government, throughout Nebraska, to develop and commit to an Olmstead Plan.

In order to meet the obligations to Nebraskans with disabilities with a comprehensive strategic plan for providing services to qualified persons with disabilities in the most integrated community-based settings pursuant to the Olmstead decision, the Department recommends the Government, Military, and Veterans Affairs Committee be delegated the responsibility, under their jurisdiction for processing and developing legislation regarding state and local governmental operations and functions, to develop and implement an Olmstead Plan.

Further recommendations:

- Need for cooperation and contributions from all levels of government, to include all branches of State government and political sub-divisions statewide. This likely requires legislative support and action.
- Require input and commitment from all parties determined essential to the development and implementation of a strategic plan.
- Jurisdiction is needed to create oversight and accountability for necessary entities including state government, and political sub-divisions, including but not limited to: school districts, city and county municipalities, and regions.

Attachments

- December 15, 2016 preliminary progress report
- December 15, 2017 second progress report
- Stakeholder Listening Themes
- Nebraska Olmstead Plan Framework draft
- Technical Assistance Collaborative, Inc. contract extension request letter
- Technical Assistance Collaborative, Inc. proposal for plan completion

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DEPT. OF HEALTH AND HUMAN SERVICES

Pete Ricketts, Governor

December 15, 2016

Patrick J. O'Donnell
Clerk of the Legislature
State Capitol, Room 2018
Lincoln, NE 68509-4604

Re: Disability Services Stakeholder Olmstead Planning Advisory Committee Progress Report

Dear Mr. O'Donnell,

Nebraska Revised Statute §81-6,121-122 requires the Department of Health and Human Services to report to the Legislature and the Governor by December 15, 2016, on the Department's comprehensive strategic plan for providing services to qualified persons with disabilities in the most integrated community-based settings pursuant to the Olmstead decision.

The preliminary progress report due December 15, 2016 is attached.

If you have any questions, please contact me at (402) 471-8714.

Respectfully,

Courtney Miller

Courtney Miller, Director
Division of Developmental Disabilities
Department of Health and Human Services

Preliminary Progress Report to the Legislature and the Governor

Assessment of Components of the Strategic Plan

The Department convened a team consisting of persons from each of the six divisions of the Department to assess components of the strategic plan which may be in development. Please find the attached Department of Health and Human Services Initiatives and Programs.

Consultation with other state agencies that administer programs serving persons with disabilities and appoint and convene a stakeholder advisory committee

The Department assembled the Disability Services Stakeholder Olmstead Planning Advisory Committee. Please find the attached list of committee appointments that represent other state agencies that administer programs serving persons with disabilities and representation as required in §81-6,121-122. The Committee met on September 16, 2016, and on November 29, 2016.

The Department's Recommendation on Hiring a Consultant

The Department is recommending hiring a consultant to facilitate stakeholder engagement, build upon recommendations from the Medicaid Long-Term Care Redesign initiative and develop the strategic plan.

Department of Health and Human Services
Initiatives and Programs

Money Follows the Person Program

The Division of Medicaid and Long-Term Care facilitates the Money Follows the Person (MFP) Program. Nebraska was one of 31 states selected by CMS to host this demonstration project. This initiative is designed to assist individuals who are institutionalized in nursing facilities, hospitals, and intermediate care facilities to transition to their homes and communities. Transition assistance includes identifying and connecting with community resources, applying for financial assistance, coordinating providers and services, and facilitating communication with the individual and his/her family regarding transition options. Through its MFP project, Nebraska is committed to the following objectives:

- Assisting persons who are elders, have a physical or developmental disability, or have a TBI to transition from a nursing facility or intermediate care facility to a community based setting
- Rebalancing Nebraska's long-term care continuum by increasing the use of community based services and decreasing the use of facility-based care
- Promoting choice and supporting community-based services and programs

Since the program was initiated in June 2008, 500 individuals have transitioned to the community.

Aging and Disability Resource Center (ADRC) Pilot Project

The Division of Medicaid and Long-Term Care facilitates the Aging and Disability Resource Center pilot project. The 2015 Nebraska Legislature funded a pilot project for three regional Aging and Disability Resource Center sites through LB 320. The sites will operate through June 30, 2018.

The ADRCs will offer information and referral and options counseling to individuals age 60 and over, and disabled persons of all ages. In addition, ADRCs are to identify unmet service needs in their communities and develop recommendations.

Nebraska's ADRC services will be provided through the three pilot sites, collaborating with local providers, an online hub of information (http://nebraska.networkofcare.org/aging/index.aspx), and over the telephone via toll-free number: 1-844-843-6364.

Long-Term Care Redesign Project

The Division of Medicaid and Long-Term Care launched its Long-Term Care Redesign Project in the summer of 2016. The Division has contracted with a national consultant to evaluate its long-term care delivery system and to talk with consumers, providers, advocacy organizations and others about their experience with publicly-funded long-term care services delivery (and especially Medicaid-funded service delivery). The consultant will present recommendations for the redesign of its programs in order to meet project goals, which include improving quality, independence for individuals, coordination, access to services, matching individuals with needed

services, and providing services in the most integrated setting. Project information is available at http://dhhs.ne.gov/medicaid/Pages/medicaid_LTC.aspx. A final redesign plan is to be available by May of 2017.

Aged and Disabled 1915(c) Waiver

The Division of Medicaid and Long-Term Care administers the Aged and Disabled (AD) Waiver are available to individuals of all ages who are eligible for Medicaid and have needs that qualify for a nursing facility LOC, but wish to remain at home and can be safely served in their home. Services that are available through this waiver include in-home assistance such as cleaning, laundry, home delivered meals; respite; adult day health care, extra care for children with disabilities, and assisted living.

Traumatic Brain Injury 1915(c) Waiver

The Division of Medicaid and Long-Term Care administers the Traumatic Brain Injury (TBI) Waiver program provides specialized assisted living services to individuals aged 18-64 years who have a diagnosis of TBI and meet nursing facility level of care criteria. This waiver provider is Quality Living of Omaha.

Developmental Disabilities 1915(c) Waivers

The Division of Developmental Disabilities (DDD) administers two Medicaid Home and Community-Based Services (HCBS) waivers for adults with Developmental Disabilities (DD), and one Medicaid HCBS waiver for children with DD.

Each adult waiver offers alternatives to institutionalization in an ICF/IID or nursing facility for individuals whose needs can be met by community-based DD providers. DDD offers a menu of services and supports intended to allow individuals with intellectual or DD to maximize their independence as they live, work, socialize, and participate to the fullest extent possible in their communities.

The HCBS waiver for children with DD offers alternatives to institutionalization in an ICF/IID or nursing facility for individuals whose needs can be met by community-based DD providers. A combination of non-specialized (directed by family or guardian) and specialized services are offered under this waiver for children under the age of 21 years, and their families as appropriate, to allow choice and flexibility for individuals to purchase the services and supports that the individual may need or prefer. For individuals continuing in special education beyond their 21st birthday, eligibility may continue until the special education services end.

Effective January 1, 2017, the Division will implement prioritization criteria for individuals who choose to leave an institution and reside in the community through the HCBS DD waivers.

Nebraska Planning Council on Developmental Disabilities

The Division of Public Health provides administrative support to the Nebraska Planning Council on Developmental Disabilities. This is a federally mandated Council with membership appointed by the Governor to provide outreach, education, and advocacy to improve the quality of life for persons with developmental disabilities. The Council's goal is that individuals with

developmental disabilities are able to have access to community services and that these individuals and their families have access to programs that promote independence, productivity, integration, inclusion, and self-determination in all facets of community life. The Council has a long history of advocating for the most integrated community-based service settings pursuant to the Olmstead decision in 1999 by the United States Supreme Court.

The Nebraska Planning Council on Developmental Disabilities uses the following strategies to promote their mission:

- Identifies performance priorities in a five-year state plan that guides all Council work.
- Awards grants to various agencies, organizations and other entities to address gaps and barriers in the system.
- Identifies legislation introduced and educates policymakers on the impact of these bills on persons with developmental disabilities.
- Presents testimony at relevant hearings and follows applicable regulation development.
- Serves on committees to ensure discussions include needs of persons with developmental disabilities.
- Funds six Regional Councils to meet the State Council's goals at local levels and to assist with grant reviews, hosting public forums and advocacy efforts.
- Supports Council staff who advocate, collaborate, and increase awareness for individuals with developmental disabilities by serving on numerous advisory councils and committees.

Nebraska Supportive Housing Plan

The Division of Behavioral Health (DBH) engaged the services of the Technical Assistance Collaborative, Inc. (TAC) to work with the Division and related state agencies to develop a Strategic Supportive Housing Plan for Nebraskans living with and recovering from serious behavioral health conditions. This plan offers recommendations in the following general categories:

- Develop and align DBH policy to promote supportive housing and community integration as two foundational aspects of the behavioral health service system
- Define and establish a supportive housing pipeline over a three- to five-year timeframe
- Ensure that effective and evidence-based practices and services are available to promote successful tenancy and community integration
- Establish sustainable funding sources for supportive services to individuals living in supportive housing settings
- Strengthen provider workforce capacity

Each key recommendation is broken down into specific action steps. The full Nebraska Supportive Housing Plan can be found at:
http://dhhs.ne.gov/behavioral_health/Documents/TACFinal2016.pdf

Veterans Homes Voluntary Discharge

The Division of Veterans Homes currently has a voluntary discharge process in place to ensure the health and safety of the members. Some process items include:

- Promoting successful transition of the member to their new location

- Education to members, family, & legal representative regarding care & medication
- Education on outside agencies that can assist the member following discharge
- Interdisciplinary team discussion regarding any risks or concerns
- Discussion of bed hold policy prior to discharge.

Child Protective Services

The Division of Children and Family Services (DCFS) administers Child Protective Services and policies and procedures require any child who cannot safely reside with a parent/legal guardian must be placed in the least restrictive placement. When children require a residential type of living arrangement, the goal is to move the child to the least restrictive placement as soon as possible and to ensure the placement is in the best interest of the child.

DCFS is in the process of implementing requirements of the Strengthening Families Act, which implements new requirements and best practice provisions to ensure the following for children involved in the foster care system:

- Reasonable and Prudent Parent Standard (RPPS): Allows foster parents and designated individuals at child care institutions (i.e., group homes) to use their best judgment in making day-to-day decisions regarding in what age and developmentally appropriate extracurricular, enrichment, cultural, and social activities youth in their care may participate. DHHS is training these caregivers to ensure there is clear understanding of this provision.

- Youth Notice of Rights: DCFS is working with stakeholders to develop a bill of rights for youth ages 14 and older that describes their rights with respect to education, health, visitation, court participation, to receive important documents, and the right to stay safe and avoid exploitation.

Adult Protective Services

The Division of Children and Family Services administers Adult Protective Services (APS). Policies and procedures require APS workers to support individuals in maintaining control over their lives and in making informed choices without coercion. The APS Worker must balance the duty to protect the safety of the vulnerable adult with the adult's right to self-determination.

APS has recently been invited to participate in the Long-Term Care Redesign Project to bring our Division's perspective to the recommendations of the redesign of that project.

Youth Rehabilitation and Treatment Centers

The Division of Child and Family Services, Youth Rehabilitation and Treatment Centers (YRTCs) have been working with the Rural Improvement for Schooling and Employment (RISE) program with the youth in the facility. Americorp provides education and early employment supportive services for at-risk youth across Nebraska. The RISE members provide

skill support to adjudicated youth in all 12 Nebraska Judicial Districts and collaboration with community volunteers and stakeholders to help create a brighter future for all Nebraska youth.

The YRTC's also work with Vocational Rehabilitation to provide on the job training and school assistance.

Lifespan Respite Program

The Division of Children and Family Services administers the Lifespan Respite program which provides support to pay for respite services to give the primary caregiver a temporary break. This program serves disabled individuals of all ages.

Disabled Persons Program

The Division of Children and Family Services administers the Disabled Persons and Family Support (DPFS) program which provides up to $300 a month of funding for services to individuals with disabilities to help them continue to live independently or help families stay together. This program serves disabled individuals of all ages.

Social Services for Aged and Disabled Program

The Division of Children and Family Services administers the Social Services for Aged and Disabled (SSAD) program which provides services to keep aged or disabled persons in the home. Services include housecleaning, meal preparation, shopping, home delivered meals, non-medical transportation and adult day care.

Assistance to the Aged, Blind and Disabled Program

The Division of Children and Family Services administers the Assistance to the Aged, Blind or Disabled (AABD) program which is the State Supplemental payment to an individual's Social Security Income. Individuals who are determined disabled by the Social Security Administration or DHHS are eligible for monthly money payments for living expenses. The program also provides non-recurring grants for partial reimbursement of certain expenses.

Medically Handicapped Program

The Division of Children and Family Services administers the Medically Handicapped Children's Program (MHCP) which is an umbrella term used to describe three separate programs delivered as MHCP. The Disabled Children's Program, Genetically Handicapped Person's Programs and MHCP are these three programs. These programs provide for support in paying medical expenses for children with specific health care needs, provides respite and reimbursement for some medical services.

Disability Services Stakeholder Olmstead Planning Advisory Committee Appointee List (LB1033)

Groups Requiring Representation Per Statute	Representative
State Advisory Committee on Mental Health Services	Rachel Pinkerton
Advisory Committee on Developmental Disabilities	Joyce Werner, Committee Chairperson
Nebraska Statewide Independent Living Council	Kathy Hoell, Executive Director, NSILC
Nebraska Planning Council on Developmental Disabilities	Kristen Larsen
Division of Rehabilitation Services in the State Department of Education	Mark Schultz, Deputy Commissioner VR
A housing authority in a city of the first or second class	Nancy Bently, Housing Partner Western NE
A housing authority in a city of the primary or metropolitan class	Seanna Collins, Lincoln Housing Authority
Assistive Technology Partnership	Tobias Orr, Director, Assistive Technology Partnership
Protection and advocacy system for Nebraska	Dianne DeLair, Disability Rights Nebraska
Assisted-living organization	Heath Boddy, President, Nebraska Assisted Living Association
	Julie Kaminski, Board of Leading Age and New Cassel
Behavioral health regions	Patricia E. Jurjevich
Mental health practitioners	Bill Reay, CEO, OMNI Behavioral Health
	Stacey Werth-Sweeney, Lincoln Regional Center
Developmental disability service providers	Roger Stortenbecker, DSN
Organization that advocates for persons with developmental disabilities	Michael Chittenden, Arc
Organization that advocates for persons with mental illness	Tom Adams, NAMI
Organization that advocates for persons with brain injuries	Keri Bennett, Program Director, Acquired Brain Injury, NE VR
Area agency on aging	Dennis Loose, Eastern NE Office on Aging
Person with disability representing self-advocacy organization (1)	Joni Thompson, Executive Director, Independence Rising
Person with disability representing self-advocacy organization (2)	Ken Timmerman
Others:	
Private ICF	Tammy Westfall, V.P. of Operations, Mosaic
Legislative representative	Kate Bolz
Probation representative	Julie Scott
Family member of an aged or disabled program recipient	Sharon Dalrymple
NE Occupational Therapy Assoc.	Janel Meis

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DEPT. OF HEALTH AND HUMAN SERVICES

Division of Developmental Disabilites

Strategic Plan Report

12/15/2017

§ 81-6,121.122

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DEPT. OF HEALTH AND HUMAN SERVICES

Pete Ricketts, Governor

December 15, 2017

Patrick O'Donnell, Clerk of the Legislature
State Capitol, Room 2018
P.O. Box 94604
Lincoln, NE 68509

Re: Disability Services Stakeholder Olmstead Planning Advisory Committee Progress Report

Dear Mr. O'Donnell:

Nebraska Revised Statute §81-6,121-122 requires the Department of Health and Human Services to report to the Legislature and the Governor by December 15, 2017, the progress of the Department's comprehensive strategic plan for providing services to qualified persons with disabilities in the most integrated community-based settings pursuant to the Olmstead decision.

The second progress report due December 15, 2017 is attached.

If you have any questions, please contact me at (402) 471-6038.

Respectfully,

Courtney Miller

Courtney Miller, Director
Division of Developmental Disabilities
Department of Health and Human Services

Second Progress Report to the Legislature and the Governor

The Department of Health and Human Services, in collaboration with the Disability Services Stakeholder Olmstead Planning Advisory Committee, drafted a Request for Information (RFI) for the purpose of gathering information from experienced firms or independent consultants with specialized knowledge, education, skills and experience to assist the Department in issuing a Request for Proposals (RFP) for consultation services to develop a comprehensive strategic plan in compliance with the conditions of Nebraska statute. Interested respondents were asked to submit information regarding a proposed approach, any relevant market conditions or other relevant information that could impact the preparation of a structured RFP, plan structure information, along with budgetary pricing to meet Nebraska's needs.

The RFI was released October 19, 2017 with the opening December 5, 2017. The Department received one response to the RFI from Technical Assistance Collaborative (TAC). TAC indicated the time to facilitate the planning process and prepare a written plan for Nebraska to adopt would cost approximately $125,000 to $150,000 for a 6-8 month process.

The Disability Services Stakeholder Olmstead Planning Advisory Committee is scheduled to meet on December 15, 2017 to review RFI response and discuss next steps.

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Olmstead Planning Listening Sessions Themes

Overview

The Nebraska Department of Health and Human Services (DHHS) has entered into a contract with the Technical Assistance Collaborative, Inc. (TAC) to provide technical assistance and consultation services for the development of the Nebraska Olmstead Plan. Olmstead Plans are named after the 1999 US Supreme Court decision, *Olmstead v. L. C.*, in which the U.S. Supreme Court ruled that states should work to reduce unnecessary segregation of persons with disabilities and ensure that they receive services in the most integrated setting appropriate to their needs.

To hear about the strengths and challenges of the current systems of care for consideration in the Olmstead plan, TAC held a series of listening sessions and invited a variety of stakeholders including persons with disabilities, family members, providers, advocates and others. Session dates were held as follows:

- August 17, 2018 – 3 Listening Sessions in Lincoln
- September 25, 2018 - 2 Listening Sessions in Grand Island
- September 26, 2018 – 1 Listening Session in Omaha
- October 23, 2018 – 1 Listening Session via phone for Pan Handle region[1]

This document is a summary of high level themes from these sessions. Within each theme there are descriptions of some strengths/progress and challenges related to each area. Since information gathering will continue while the states' Olmstead Plan is being drafted this summary does not include specific recommendations. These will be included in drafts of the plan going forward.

It is important to note that the session summaries reflect the comments and thoughts shared by session participants and do not necessarily reflect the State's position or perspective.

Cross Disability and Cross Division Themes/Issues from Listening Sessions

DHHS Communication and Transparency

DHHS and its divisions have worked to increase communications and transparency with consumers and other stakeholders in recent years. Some examples of activities include the creation of list serves to disseminate information, public information sessions held across the state by division leaders and the reorganization of the DHHS website to better find information. Listening session attendees acknowledged this shift toward greater communication and recommended continuing to build trust/transparency and communication with consumers and families.

[1] This call did not have any participants. TAC followed up with those invited to the listening session and conducted individual interviews with those in the Pan Handle area instead.

In addition to expressing the need for increased communication with consumers and families, many stakeholders shared their perception that siloes exist between DHHS divisions and that better communication between divisions could improve services for individuals with multiple needs or dual diagnoses. As an example, attendees recognized some progress toward breaking down siloes with the work done between the DDS and DOE for children with developmental disabilities.

Institutional Settings and Gaps in Community Based Services

The numbers of beds at state run centers (Beatrice State Developmental Center, Lincoln Regional Center and others) have been reduced over time, with focus on building community services/infrastructure. Nebraska's four Medicaid waivers and the Money Follows the Person program have provided the opportunity for thousands of individuals with disabilities to move from or avoid admission to Intermediate Care Facilitates for persons with Intellectual Disability (ICF/IDs) and nursing facilities.

However, listening session attendees noted that there is still significant funding supporting state-operated facilities that could be re-purposed to fill gaps in service alternatives to care that are fully integrated community options. Stakeholders also perceive that, given the lack of community-based alternatives, assisted living facilities (ALFs) have seen an increase in utilization since the reduction in institutional beds. In addition, waitlists for services (such as vocational rehabilitation) and for some of the home and community-based waivers result in significant delays for community-based services. In addition to wait times, others noted that while there are community-based providers for persons with developmental and psychiatric disabilities throughout the state, that overall there are not enough providers and programs state wide to meet the needs of those who wish to live in the community. Stakeholders identified the need to enhance or expand evidenced based models or practices (EBPs) in existing programs with services such as peer supports and other best practice models such as Assertive Community Treatment (ACT). Lastly, listening session attendees noted that there are limited choices for services and settings across the continuum of care and the need to enhance options should be emphasized in the Olmstead Plan.

Diversion from Segregated Settings, Including Jail/Prison and Homelessness

Stakeholders recognized a number programs and initiatives that state agencies are implementing to divert individuals with disabilities from segregated settings. Stakeholders representing youth expressed optimism for the Children' System of Care initiative. Other stakeholders identified the Division of Behavioral Health's (DHHS-DBH) support of Mental Health First Aid Training as an EBP for reducing incarceration of individuals with serious mental illness (SMI). DBH has also started providing in-reach into jails to provide services as the person leaves prison rather than have them wait and come out with no services. The Governors' Council has prioritized the need to address homelessness for persons with substance use disorders and series mental illness (SUD/SMI).

As noted above, given the gaps in community-based options, listening session attendees noted that when individuals with physical, developmental and/or SMI do not obtain the necessary supports to remain safely in the community, they often cycle in and out of more restrictive settings, such as hospitals, nursing facilities, jails or prisons and/or become homeless. Listening session attendees noted that looking at current best practice programs that work to divert individuals with disabilities from these settings and continuing with initiatives by the state to examine patterns of regression and recidivism will be key to meeting the needs of these populations in the community.

Housing

Some stakeholders recognized the contributions of the Regional Housing Coordinators and the Rental Assistance program. Stakeholders identified successful supported housing initiatives, such as landlord engagement efforts in Region VI, and expressed strong interest in creating more community-based living opportunities.

Finding affordable and accessible 1-bedroom housing is a challenge across the state. Engaging landlords to participate in rental assistance programs and Section 8 vouchers is a challenge. Pre-tenancy and tenancy supports are not widespread. Other challenges for housing include inconsistencies in case management to help provide tenancy sustaining supports/crisis management for residents who may then be at risk of losing their housing. As a result, stakeholders perceive that individuals with disabilities often have little choice but to live in ALFs as referred to above.

Integrated Education/Employment

Several families of youth with autism praised their school districts' approaches to inclusion. Other stakeholders recognized that the state has moved toward competitive employment models, with a focus on the evidence-based practice of Individual Placement and Support – Supported Employment (IPS-SE). The Division of Developmental Disabilities (DHHS-DD) is transitioning existing employment approaches to come into compliance with the Home and community Based Services (HCBS) Final Rule.

While progress has been made, some sheltered workshops remain. Some stakeholders expressed strong opposition to DHHS-DDS' plan to discontinue support for the workshops/enclaves. Other listening session attendees support the move but noted that they feel the state should take a slow and steady pace to closing workshops and transitioning to other employment models. As noted above, there are long waitlists for vocational rehabilitation services and after young-adults reach age 21 there is a gap in employment and supported education programming. Also, for individuals who don't want to seek employment, DDS must assure that providers offer meaningful day services that allow individuals to participate in their community.

Transportation

Attendees of sessions stated that the lack of public transportation is a significant impediment to community inclusion for individuals with disabilities. While stakeholders identified that public transportation is available in urban areas, services are limited to certain areas within cities and have limited hours of operation. Stakeholders consistently stated that public transportation is not available in rural areas of the state. In addition, not all public transportation that does exist is accessible for persons with physical and other disabilities. Medical transportation providers are limited to certain geographic areas and therefore must coordinate travel with other providers when they reach their jurisdiction limits. Attendees noted that there are not enough non-medical transportation providers across the state as well.

Person-Centered Planning Philosophy and Training

Stakeholders at various listening sessions noted that some providers have embraced and practice person-centered planning and skills training, however other providers have not fully implemented this approach. Attendees suggested that workforce training to enhance the practices and philosophies of persons centered planning would result in better skill building and person-driven planning that instills autonomy, which would result in better outcomes for consumers living in the community

Workforce and Reimbursement Rates/Funding

Stakeholders in every listening session identified examples of direct care staff who work hard to deliver quality services to individuals with disabilities. Stakeholders also recognized the promise of Peer Support Specialists in helping to address workforce shortages. Some stakeholders suggested that allowing family members to be paid caregivers could also help to address workforce shortages.

In all listening sessions providers and families alike noted that turnover of the direct care workforce is a key barrier to providing quality care in the community. Many attributed high rates of turnover to low wages, noting that direct care staff can be paid more at retail or food industry jobs than working with persons with disabilities. Stakeholders attributed the difficulty in retaining workforce in Nebraska to low provider reimbursement rates and funding cuts to DHHS.

Data Collection, Reporting and Evaluation

Some attendees noted that DHHS has made progress in its business plan goals to work on data sharing and systems improvements to produce better reporting which can then be used to drive better programming and outcomes for consumers.

Provider and other attendees noted that reporting systems used at the provider and DHHS level are not integrated with one another, which in turn makes it difficult to match data cross systems/agencies, to accurately report services provided to consumers. Stakeholders expressed frustration that the lack of information systems that produce good data prevent providers, DHHS and others to evaluate effective services and to measure progress over time.

Nebraska Olmstead Plan Framework

Introduction

Background on Olmstead/Neb. Rev. Stat. 81-6,121 & 81-6,122

Plan Development Process

Would include methodologies, stakeholders involved and

Nebraska's System to Support Individuals with Disabilities

Systems Overview

Strengths of the System

Themes from interviews/listening sessions

Challenges within the System

Themes from interviews/listening sessions

Nebraska's Olmstead Plan -

Topic Area #1= Reduced Reliance on Institutional Settings

What Does This Mean and Why is it Important?

Narrative description

Nebraska's Progress in this area

Data on previous reduced utilization of 'Institutional' beds, by each Agency

Measurable Goals

Will include baseline if available, with incremental measures set by each applicable agency

Strategies

Per each applicable agency, with timeframes

Topic Area #2 – Diversion from Segregated Settings, Including Jail/Prison and Homelessness

Topic Area #3 – Home and Community Based Services and Supports

Topic Area #4 – Housing

Topic Area #5 – Integrated Education/Employment

Topic Area #6 – Transportation

Topic Area #7 – Data Collection, Reporting and Evaluation

Plan Implementation/Oversight

Conclusion or Closing Statement

TAC
TECHNICAL ASSISTANCE
COLLABORATIVE

Housing and services strategies *that work for people.*

December 5, 2018

Mr. Bo Botelho, Acting Chief Executive Officer (CEO)
Nebraska Department of Health and Human Services

Dear Acting CEO Botelho:

As you know, effective July 22, 2018, the Technical Assistance Collaborative, Inc., (TAC) entered into a contract with the Department of Health and Human Services (DHHS) to assist in the development of the Nebraska Olmstead Plan (the Plan), a comprehensive, interagency plan designed to consolidate, improve, unify, coordinate, and evaluate disability services and funding statewide. The Nebraska Olmstead Plan is intended to serve as Nebraska's plan for meeting its obligations to provide individuals with disabilities opportunities to live, work, and be served in integrated settings.

The proposal TAC submitted, which ultimately resulted in this contract, included a scope of work, budget, and timeline for the development of the Plan for submission to the Legislature by December 15, 2018. However, TAC did indicate in the proposal that, based on our experience working with states to develop Olmstead Plans, a minimum of 6 to 8 months would be necessary.[1] Our work began in early August by requesting and reviewing multiple documents, reports, and websites in order to gather background information and an understanding of the services and systems that support individuals with disabilities in Nebraska. We have since conducted three site visits during which we've met with the DHHS Steering Committee, met with the Olmstead Advisory Committee, held six listening sessions, conducted more than 35 in-person and telephonic stakeholder interviews, and met individually with DHHS Division staff and the Acting CEO.

We believe our process has been thorough and has generated a number of consistent themes about the strengths of the services and systems that support individuals with disabilities in Nebraska, barriers that impede access to those services and supports, and gaps in services and supports that would promote greater opportunity for community inclusion. We have identified many areas of progress made by Nebraska in supporting individuals with disabilities to live, work, and be served in their communities. However, we have also identified areas of vulnerability and are just now beginning to formulate recommendations for goals and strategies to be considered for inclusion in the Plan. These recommendations vary from short-term actions that may be readily adopted by an agency or agencies, to long-term strategies that may require considerable thought and deliberation across agencies. The Legislature and state agencies still need to come together to agree on a Plan that is implementable and also consistent with Olmstead.

In addition to goals and strategies yet to be agreed upon, the Plan should also include measures to assess progress. Progress may be viewed as taking action or achieving a quantifiable target. Regardless, we have not

[1] TAC's recent Olmstead Planning engagement with Massachusetts required over 18 months to complete a Plan *Up-date*.

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had the opportunity to begin discussions with state leaders about Plan measures; that discussion is contingent on agreed upon goals and strategies.

While the Plan has been tasked to DHHS, the agency alone cannot achieve the goals that we believe will be necessary for Nebraska to meet its responsibilities under Olmstead. Other state agencies, the Legislature, and the Governor's Office are additional 'stakeholders' that must ultimately support the Plan. We have had little to no interaction with these key players. Based on TAC's experience with assisting states in Olmstead planning, educating and garnering the support of these partners is an important step that will add to the timeframe, but will be essential for Plan implementation.

TAC's original timeline to have a Plan to the Legislature by December 15th required our submission of a suggested Plan outline to DHHS by November 2nd, followed by draft Plan recommendations by November 9th. We have submitted the suggested Plan outline, but have yet to receive DHHS' Collective feedback. Until we have a sense of the Plan framework, we are limited in our ability to proceed with Plan recommendations. In addition, we are in sync with the Department's commitment to transparency in developing the Plan. After the Plan is drafted and reviewed by DHHS, we anticipate an extensive external review process with feedback from the Olmstead Advisory Committee, as well as interested stakeholders. This part of the process alone can take several weeks.

In summary, TAC entered into a contract with the Department to assist in the development of the Nebraska Olmstead Plan, for submission to the Legislature by December 15th. We knew, based on our experience with Olmstead Planning in other states, that this was an extremely compressed timeframe. If required, we will submit a Plan to the Department strictly based on our assessment of the information that we have received and synthesized. There will be insufficient time for dialogue with DHHS, internal vetting, sharing with the Advisory Committee and other interested parties, and no time for dialogue with the Legislature or the Governor's Office. We do not believe that will produce the best Plan for Nebraska.

In order to produce the most viable Plan with the widest support, we are suggesting extending the timeline, optimally through June 30, 2019. That will result in a working timeframe of just less than a year, which is a far more reasonable amount of time to develop an original Olmstead Plan.

The TAC Team's work hours and travel expenses through October 31st have accounted for just over half of our proposed budget. Absent an approved extension, the balance of the budget will be spent on drafting the Plan, intensive review and negotiations with DHHS, reviewing the Plan and processing feedback from the Olmstead Advisory Committee, production of the final Plan, and the necessary travel to support these tasks. If the extension is approved, I anticipate that additional hours and travel will be necessary to meet with representatives from the Legislature and the Governor's office, and to accommodate additional meetings with state agency staff, as well as the Advisory Committee. TAC proposes to submit a contract amendment to continue the work beyond December 31, 2018.

December 15th is approaching very quickly. TAC is requesting a response concerning the contract extension amendment as soon as possible. Please let me know if you have any questions or need further information.

Sincerely,

Sherry Lerch

Sherry Lerch, Senior Consultant

TAC
TECHNICAL ASSISTANCE COLLABORATIVE

Nebraska Olmstead Plan

Revised Work Plan and Budget Request

Project Status

The original proposal identified three tasks to be completed by December 15, 2018:

Task	Cost
Task 1 - Environmental Scan, Data Analysis and Planning	$35,580
Task 2 - Meetings with state team and stakeholder advisory committee; stakeholder interviews	$59,955
Task 3 - Preparation of Nebraska Olmstead Plan	$30,880
Estimated Travel Expenses for Onsite Work (5 trips, 2-3 consultants)	$20,810
TOTAL Estimated Budget	$147,225

As of today, December 11, 2018:

- The TAC Team has completed most of Task 1, with the exception of analyzing any data yet to be provided. We have approximately $5,500 remaining under Task 1;
- The TAC Team participates in at first weekly and now bi-weekly calls with our Nebraska Olmstead points of contact. The Team has conducted 4 on-site visits to Nebraska – in August, September, October and December. The September onsite included time spent in Grand Island and Omaha, in addition to Lincoln. We have conducted 6 Listening Sessions and more than 35 interviews. We have met with the Steering Committee twice and with the Olmstead Advisory Committee during each visit. This past visit we met with the Governor's Office of Policy and Research. As a result of our thorough interview process, we have exhausted our budget for Task 2.
- While we have not reached agreement with the Department on the goals, strategies and measures for the Olmstead Plan, the TAC Team has developed a recommended framework for the Plan, strengths of Nebraska's community-based human service system and supporting infrastructure, gaps in services and supports, as well as challenges to overcome in meeting Olmstead, accounting for $6,100 of the amount budgeted for Task 3.
- The TAC Team has completed 4 of the 5 trips for which we estimated expenses, with a balance of $8,900 remaining for Travel Expenses.
- Our remaining balance is approximately $35,000 for Task work and $8,900 for Travel.

While this may sound like sufficient funding to complete the project, given that Task 3 was budgeted at $30,800, there is considerable work remaining:

- TAC and the DHHS Steering Committee have agreed that TAC will conduct an intensive, on-site visit in late January during which the Team will meet individually with DHHS agencies to formulate goals, strategies and measures for the Plan. In addition, TAC will meet with identified representatives from the Legislature and Governor's Office, the Olmstead Advisory Committee and the Disability Advisory Council as requested. Marie Herb, our Housing team member, will be joining us for at least part of the trip. I am estimating the time for travel and spent onsite for the trip will be just under $12,000. Travel costs for the Team are estimated at $4,500.
- During our discussion with the steering Committee, there was a request for TAC to prepare a summary of our findings, thoughts and recommendations for each agency and to forward the summaries in advance of the on-site. I am estimating it will require 15 hours to prepare the summaries, at a cost of $2,900.
- TAC has received contact information for agency leaders within the Departments of Transportation and Education, the Office of the Ombudsman and Tribal Leaders. I am estimating is will require 10 hours to schedule, conduct and summarize themes from these interviews, at a cost of $1,100.
- This does not include any time for interim discussions with the Department and Agency heads to further refine goals, strategies and measures – depending on how much progress is made during our onsite in January and how much work the agencies do on their own.
- We discussed one more trip to occur in March, to make as much progress as possible with the agencies, the Department and the Legislature in formalizing Plan goals, strategies and measures, and making a "final" presentation to the Olmstead Advisory Committee.
- I estimate that the total budget for tasks and travel will be exhausted by the end of our contract extension through March 30, 2018, having put no "pen to paper" in writing the Olmstead Plan.

At the request of the Olmstead Advisory Committee, TAC is proposing that we can write an Olmstead Plan, review the Plan with the Department and the Olmstead Advisory Committee, respond to feedback and prepare a final Plan by June 30, 2018. This timeframe will require decisions to be made by the state agencies, the Department, the Legislature and the Governor's Office. As proposed, TAC estimates we can produce a final Olmstead Plan for Nebraska at the original Task 3 budget of an additional $30,800, and additional Travel Expenses for up to 2 onsite visits between April and June, 2018 for an estimated cost of $6,400, for a total additional cost of $37, 200.

TAC is appreciative of this opportunity to assist the state of Nebraska. Please let me know if you have any questions or need further information.

Prepared by Sherry Lerch, Senior Consultant
The Technical Assistance Collaborative, Inc.