

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 SUBCOMMITTEE RECOMMENDATION  
4 FOR

5 HOUSE BILL NO. 3322

6 By: Lindley

7 SUBCOMMITTEE RECOMMENDATION

8 An Act relating to poor persons; amending Section 2,  
9 Chapter 296, O.S.L. 2006 (56 O.S. Supp. 2007, Section  
10 198.11c), which relates to the Opportunities for  
11 Independent Living Act; modifying intent of  
12 Legislature; directing appointment of certain  
13 advisory committee; directing the Oklahoma Health  
14 Care Authority to apply for a waiver to establish a  
15 Self-Directed Care Program for persons with physical  
16 disabilities; specifying purpose; providing for  
17 codification; and providing an effective date.

18 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

19 SECTION 1. AMENDATORY Section 2, Chapter 296, O.S.L.  
20 2006 (56 O.S. Supp. 2007, Section 198.11c), is amended to read as  
21 follows:

22 Section 198.11c A. This act shall be known and may be cited as  
23 the "Opportunities for Independent Living Act".

24 B. The Legislature finds that:

1. In the landmark *Olmstead v. L.C.* decision, the Supreme Court  
interpreted Title II of the Americans with Disabilities Act to  
require states to administer programs in the most integrated setting

1 appropriate to meet the needs of qualified persons with  
2 disabilities;

3 2. Medicaid is presently structured to provide care to persons  
4 with disabilities in institutional settings such as skilled nursing  
5 facilities and private intermediate care facilities for persons with  
6 mental retardation (ICFs-MR), and in community-based settings such  
7 as group homes and waiver programs; and

8 3. Persons with disabilities living in institutional settings  
9 must meet certain low-income standards to become eligible for  
10 institutional care. Therefore, when a person with disabilities  
11 wishes to move into the community, he or she has little or no  
12 resources to pay for rent and utility deposits or purchase basic  
13 household items.

14 C. It is the intent of the Legislature to establish a ~~three-~~  
15 ~~year-pilot~~ program that:

16 1. Is consistent with and implements the Olmstead Decision;

17 2. Develops eligibility criteria for the ~~pilot~~ program;

18 3. In coordination with the Oklahoma Health Care Authority and  
19 the Department of Human Services Aging Division, utilizes the  
20 Centers for Medicare and Medicaid Minimum Data Set (MDS) information  
21 to identify ~~thirty~~ people who have requested to receive their  
22 services in a community setting;

23 4. Identifies barriers to moving into the community;

24

1 5. ~~Works with nurses and case managers to coordinate services~~  
2 ~~for eligible participants within the pilot program~~ Coordinates with  
3 long-term care nurses, case managers and other appropriate entities  
4 to ensure the health and safety of each consumer;

5 6. Establishes an infrastructure to allow for an effective  
6 system that allows money to follow the person from Medicaid programs  
7 into the community settings;

8 7. Increases the availability of safe, affordable and  
9 accessible housing;

10 8. Establishes a presence within local hospitals to reduce the  
11 number of inappropriate placements within institutional settings;

12 9. ~~Develops~~ Provides benefits counseling options; and

13 10. Allows qualified persons with disabilities the opportunity  
14 to transition from institutions into the community.

15 D. Subject to the availability of funding, the Oklahoma Health  
16 Care Authority shall establish and maintain a ~~three year pilot~~  
17 program to assist qualified individuals with disabilities living in  
18 institutions to transition into the community. The Authority shall  
19 act as the lead agency and is authorized to consult and cooperate  
20 with the Department of Human Services as necessary to carry out the  
21 provisions of this ~~act~~ section.

22 E. The Authority shall enter into contracts to carry out the  
23 provisions of this ~~act~~ section. Such contracted entities shall be  
24 consumer-controlled, non-residence-based, community-based, nonprofit

1 organizations with experience in transitioning persons with  
2 disabilities into community settings, such as Centers for  
3 Independent Living established pursuant to 29 U.S.C., Section 796f  
4 et seq.

5 F. The Authority through its duly contracted entities shall:

6 1. Utilize MDS data to identify participants who prefer to  
7 receive services within the community;

8 2. Develop eligibility criteria for ~~pilot~~ program participants  
9 that are consistent with guidelines established by the Centers for  
10 Medicare and Medicaid Services;

11 3. Provide ongoing assistance to further develop assessment  
12 criteria for ~~pilot~~ program participants;

13 4. Work in conjunction with health care providers and case  
14 managers to coordinate services for ~~pilot~~ program participants;

15 5. Establish ~~an effective~~ a system that allows money to follow  
16 ~~pilot~~ program participants from the institutional setting to the  
17 community;

18 6. Increase ~~pilot~~ program participant access to safe and  
19 affordable housing;

20 7. Offer follow-up services such as training, technical  
21 assistance and support for ~~pilot~~ program participants; and

22 8. Develop curriculum and marketing materials to train future  
23 service providers.

24

1 G. The Authority through its duly contracted entities is  
2 authorized to use available funding to assist eligible persons under  
3 this ~~act~~ section to:

- 4 1. Pay rent deposits;
- 5 2. Pay utility deposits;
- 6 3. Purchase initial household supplies;
- 7 4. Purchase basic initial household appliances; and
- 8 5. Purchase initial furniture and pay moving expenses.

9 H. The Authority shall promulgate rules as necessary to carry  
10 out the provisions of this ~~act~~ section. Such rules shall include  
11 but are not limited to:

- 12 1. Eligibility criteria for services;
- 13 2. Assessment protocols to identify persons in need of  
14 services; and
- 15 3. Funding to assist eligible persons.

16 I. 1. The Chief Executive Officer of the Oklahoma Health Care  
17 Authority shall, no later than December 1, 2008, appoint an  
18 Opportunities for Independent Living Advisory Committee to provide  
19 guidance on the design, implementation and evaluation of the  
20 program.

21 2. The Opportunities for Independent Living Advisory Committee  
22 shall consist of twelve (12) individuals, of whom at least nine  
23 shall be persons with disabilities.

1       3. Each member shall serve at the pleasure of the Chief  
2 Executive Officer of the Oklahoma Health Care Authority.

3       4. Members of the Advisory Committee shall serve without  
4 compensation, but shall be reimbursed for necessary expenses  
5 incurred in the performance of their duties pursuant to the  
6 provisions of the State Travel Reimbursement Act.

7       J. The Authority and the Department of Human Services shall  
8 evaluate the implementation of the ~~pilot~~ program and annually make  
9 recommendations to the Legislature regarding its effectiveness.

10       SECTION 2.       NEW LAW       A new section of law to be codified  
11 in the Oklahoma Statutes as Section 198.18 of Title 56, unless there  
12 is created a duplication in numbering, reads as follows:

13       The Oklahoma Health Care Authority, in consultation with Centers  
14 for Independent Living established pursuant to 29 U.S.C., Section  
15 796f et seq., shall apply for a home- and community-based waiver or  
16 waivers from the Centers for Medicare and Medicaid Services for the  
17 purpose of establishing a Self-Directed Care Program for persons  
18 with physical disabilities. The program shall be based on the  
19 provisions of the Self-Directed Care Pilot Program created in  
20 Section 198.15 of Title 56 of the Oklahoma Statutes.

21       SECTION 3. This act shall become effective November 1, 2008.

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23       51-2-10180       MG       02/20/08

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