



STATE OF DELAWARE
STATE COUNCIL FOR PERSONS WITH DISABILITIES

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May 31, 2016

The Honorable Thomas Carper
United States Senate
513 Hart Senate Office Building
Washington, DC 205103

RE: S. 2427 (Disability Integration Act)

Dear Senator Carper:

The State Council for Persons with Disabilities (SCPD) has reviewed S. 2427, the Disability Integration Act (DIA), which prohibits states or local governments that provide institutional placements for individuals with disabilities who need long-term assistance with daily living activities or health-related tasks, and prohibits insurance providers that fund such long-term services, from denying community-based services that would enable such individuals, as an alternative to institutionalization, to live in the community and lead an independent life. SCPD endorses the proposed legislation and has the following observations.

States, local governments, or insurance providers may not discriminate against such individuals in the provision of community-based services by: (1) imposing prohibited eligibility criteria, cost caps, waiting lists, or payment structures; (2) failing to provide a specific community-based service; or (3) requiring an individual to receive a service in a congregate or disability-specific setting. Community-based services must be offered to individuals with such disabilities prior to institutionalization. Institutionalized individuals must be notified regularly of community-based alternatives. States, local governments, and public insurance providers must assess: (1) transportation barriers that prevent individuals from receiving services in integrated settings, and (2) the availability of integrated employment opportunities. The Department of Justice (DOJ) and the Department of Health and Human Services (HHS) must issue regulations requiring states, local governments, or insurance providers to offer community-based long-term services as an alternative to institutional placement. State and local governments, in conjunction with housing agencies, must ensure sufficient availability of affordable, accessible, and integrated housing that is not a disability-specific residential setting or a setting where services are tied to tenancy. The bill provides for DOJ enforcement and allows civil actions by individuals subjected to, or about to be subjected to, a violation of this Act.

In a nutshell, DIA requires states and insurance providers that pay for LTSS to make real and meaningful changes that support the right of people with disabilities to live in freedom like every other American. It has been 25 years since the Americans with Disabilities Act was signed into law. Even so, many individuals who need long term services and supports have not benefited from the advances that were made under the ADA because they have been forced into nursing facilities and other institutions. It is time that federal law addresses this injustice and explicitly affirms the right of individuals with disabilities to receive services and supports in the community so they can be integrated into society and lead independent lives. Fundamentally, the community integration of people with disabilities is a civil rights issue. The legislation will support the Disability Community and avoid the problems associated with strictly linking the issue to Medicaid. It is a critical step forward in that process.

Thank you for your consideration and please contact SCPD if you have any questions or comments regarding our observations on the proposed legislation.

Sincerely,

A handwritten signature in black ink that reads "Daniese McMullin-Powell". The signature is written in a cursive, flowing style.

Daniese McMullin-Powell, Chairperson
State Council for Persons with Disabilities

cc: Mr. Brian Hartman, Esq.
Developmental Disabilities Council
Governor's Advisory Council for Exceptional Citizens

P&L/S 2427 DIA 5-31-16