

DISABILITY RIGHTS NORTH CAROLINA

Champions for Equality and Justice



FOR IMMEDIATE RELEASE

Contact: Vicki Smith
Executive Director
Disability Rights North Carolina
Phone: (919) 856-2195
E-Mail: vicki.smith@disabilityrightsn.org

Tuesday, June 23, 2009

DRNC Gears Up for Legal Battles

Raleigh, NC-

On June 19, 2009, the Board of Directors of Disability Rights North Carolina (DRNC) approved the transfer of all available resources to legally challenge specific cuts to services for people with disabilities. In addition, the Board authorized tapping into the agency's reserves to bring on additional staff in its efforts to protect the rights of adults and children with disabilities in North Carolina.

“Sadly on the 10th anniversary of the landmark Supreme Court decision, *Olmstead v. L.C.*, budget cuts now being considered by the N.C. General Assembly will fracture an already fragile system of community care for people with disabilities,” stated Vicki Smith, Executive Director. “The State of North Carolina is moving in the wrong direction. Lawmakers neglected to factor the federal protections provided to people with disabilities when they made decisions which severely reduce services for adults and children with disabilities.”

President Obama noted in a White House press release that “The *Olmstead* ruling was a critical step forward for our nation, articulating one of the most fundamental rights of Americans with disabilities: Having the choice to live independently.”

Laws and regulations such as the Americans with Disabilities Act, Individuals with Disabilities Education Act (IDEA) and Medicaid regulations such as Early Periodic Screening Diagnosis and

Treatment (EPSDT) mandate certain protections which may be violated by some of the state's proposed cuts.

“Children cannot be moved to more restrictive environments or denied appropriate services simply because the state has abolished options or severely cut back on an array of services,” Smith stated. “The State is looking at a number of cuts and eliminations to services for children that, in isolation, are troubling, but when taken together, could prove disastrous to our state's children with disabilities.”

When the State closes residential facilities for children and youth, it cannot neglect their due process rights, their right to the treatment that is medically necessary for them, or their right to a Free and Appropriate Public Education as delineated in their Individual Education Program. Those needs are not dictated by legislation but by individual assessments and often medical necessity.

“The cuts to services in the community are also very troubling,” Smith said. Many people with significant developmental or other disabilities are able to live in the community when they receive appropriate support and services. The elimination of those supports and services for economic reasons does not eliminate their needs or their rights under federal law. “Many people with disabilities fear that as their services are cut, they will be forced to move into more restrictive settings,” Smith explained. “This backward trend is against the intent of the U.S. Supreme Court's 1999 Olmstead decision. “

Effective immediately, DRNC will focus its resources on the following areas:

- Protect the rights of people with disabilities successfully living in community based settings who are at risk of moving to more restrictive settings because their services were significantly reduced or eliminated due to state budget cuts.

- Address situations where individuals experience extended stays in an ER (5 days or more) and other 'civil commitment' issues related to waiting for necessary treatment.

- Ensure that children with disabilities residing in residential placements receive appropriate discharge planning and placement if their residential facility is eliminated.

- Ensure that service needs of people with disabilities who are in the criminal justice system (juvenile justice facilities and prisons) are correctly identified and receive appropriate treatment and services while detained or incarcerated.

DRNC will continue to monitor conditions in facilities licensed by the state's Division of Health Services Regulation and investigate suspicious deaths in state operated facilities.

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Disability Rights North Carolina is the state's federally mandated protection and advocacy system for people with disabilities. One of the P&A's primary federal mandates is to protect and advocate against the abuse and neglect of people with disabilities, including mental illness, in the care of state institutions.