

Twelve Years After the ADA



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Presentation Overview

- Background on ADA/Olmstead
- Impact on Home and Community Based Services
- The New Freedom Initiative
- The President's Executive Order
- The HHS Response: Delivering on the Promise
- President's 2004 Proposed Budget



Americans with Disabilities Act

- Enacted July 26, 1990
- Prohibits discrimination and ensures equal opportunity for persons with disabilities in employment, State and local government services, public accommodations, commercial facilities, and transportation



The Olmstead Case

- Brought by two women with mental retardation and mental illness living in State-run institutions.
- Plaintiffs asserted that institutionalization was a violation of the ADA.
- Treatment professionals had determined that the Plaintiffs could be appropriately served in the community.



The Olmstead Decision

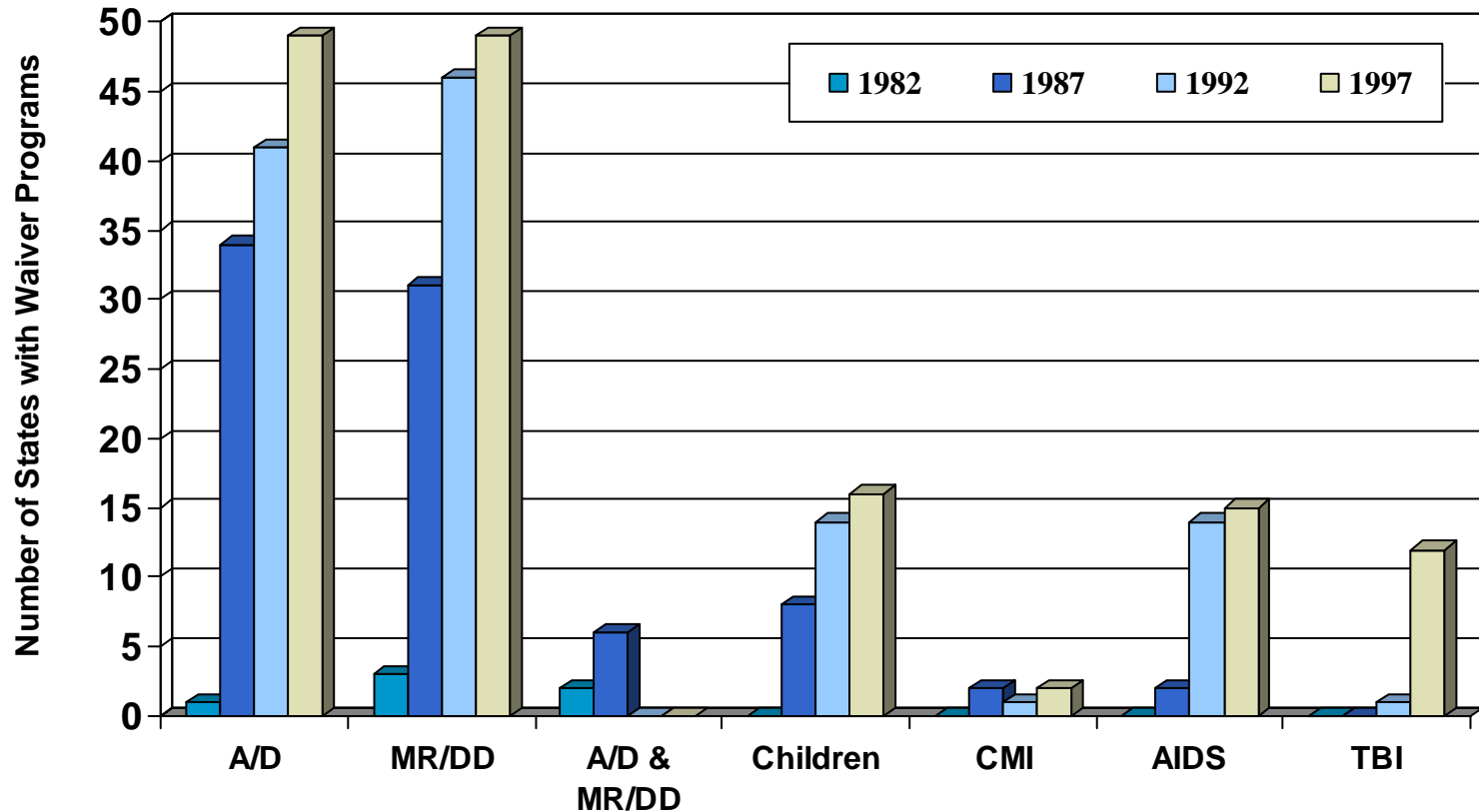
- Interprets Title II of the ADA and requires states to administer their services, programs and activities “in the most integrated setting appropriate to the needs of qualified individuals with disabilities”
- States comply by having a:
 - Comprehensive, effectively working plan for placing qualified persons with disabilities in less restrictive settings
 - Waiting list that moves at a reasonable pace not controlled by the State’s endeavors to keep its institutions full



Developments since the ADA and the Olmstead Decision

- More States with 1915(c) Waivers
- More Waiver Participants
- Fewer ICF/MR Medicaid Beneficiaries
- A shift from ICF-MRs to HCBS services

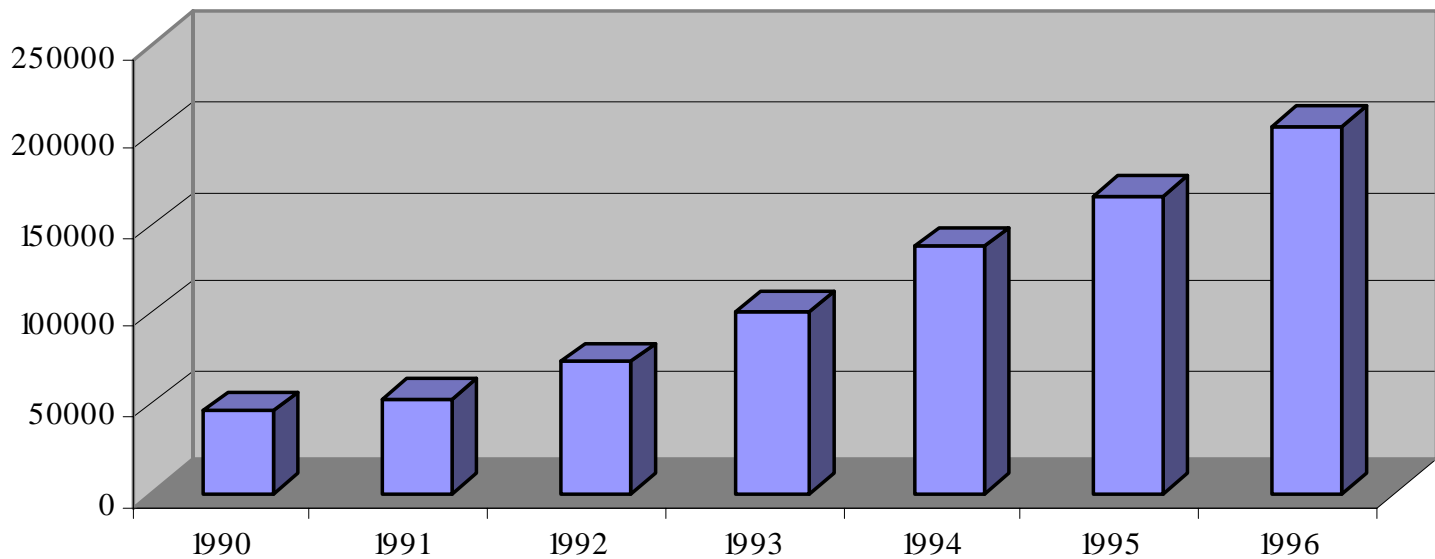
Number of States with 1915(c) Waivers



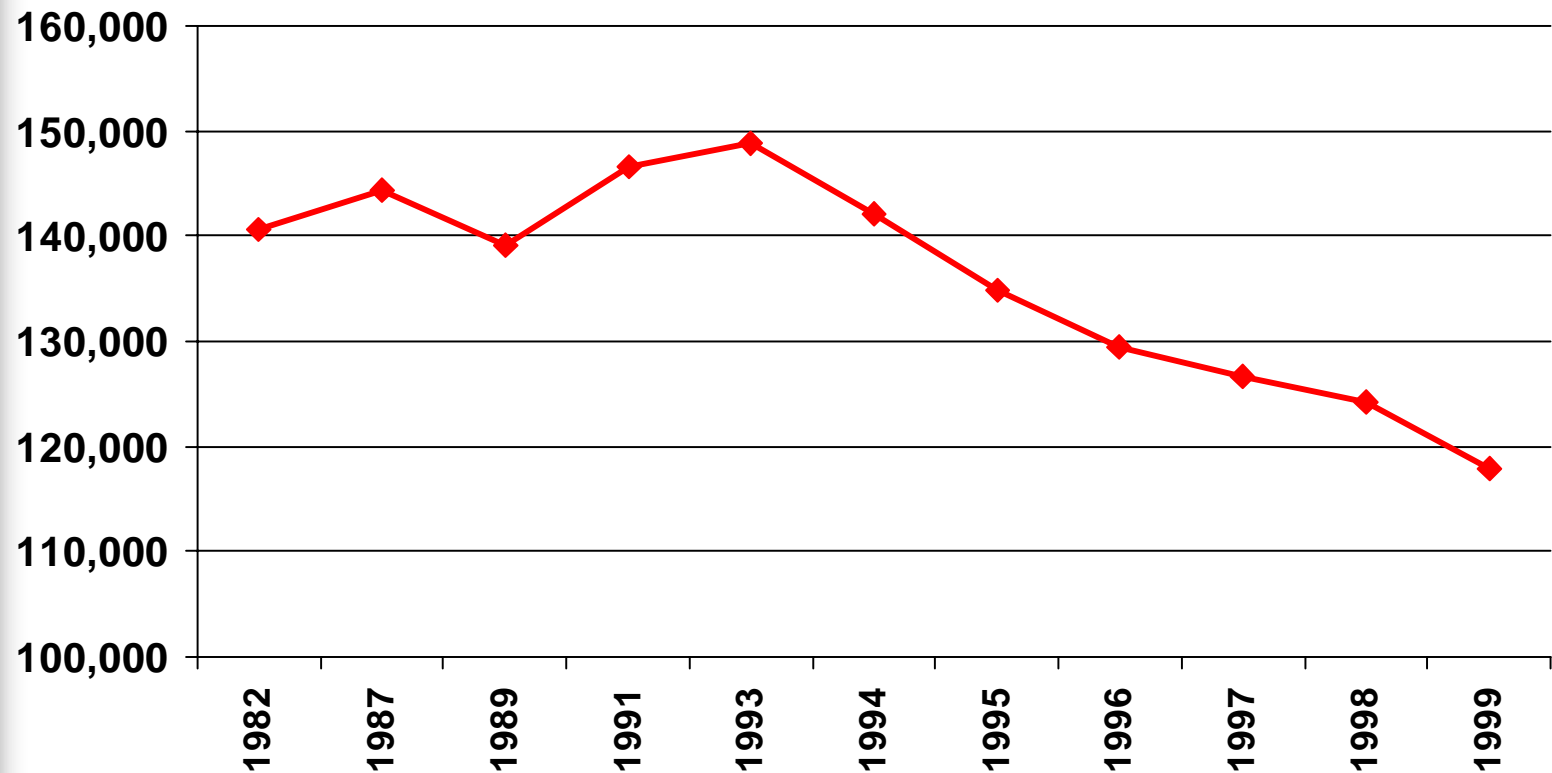
The Lewin Group analysis of HCFA Form 372 provided by Harrington and Miller, *Medicaid 2176 Home and Community-Based Care Waivers: The First Ten Years*, (Health Affairs, 11:4) pp.. 162-171.

HCBS Waiver Participants are Increasing

HCBS Waiver Participants Who Have Mental Retardation/Developmental Disabilities : 1990-1996

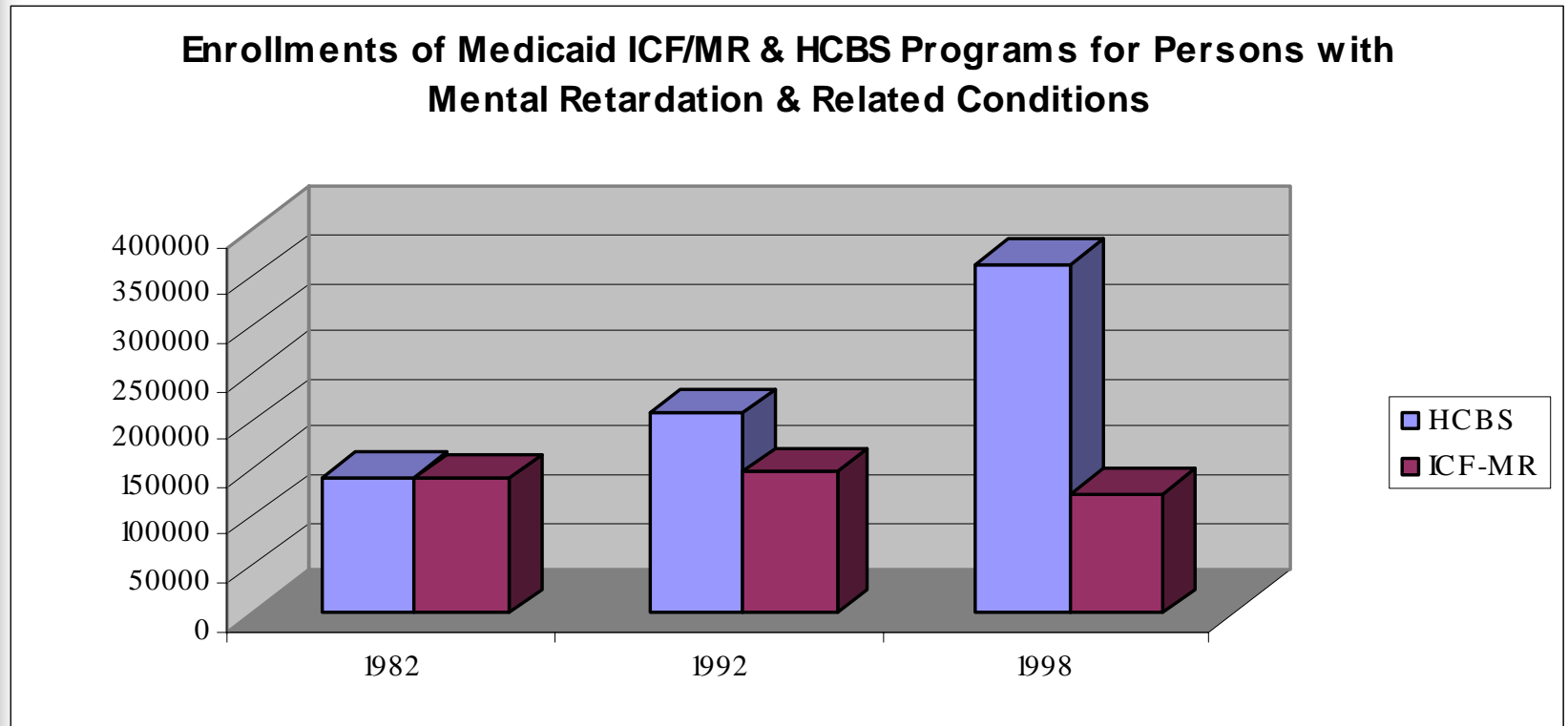


Number of ICF/MR Medicaid Residents by Year



R. Prouty and K.C. Lakin (eds.), *Residential Services for Persons with Developmental Disabilities: Status and Trends through 1999*. (Research and Training Center on Community Living, University of Minnesota: May 2000) p. 160.

HCBS Waiver Services are Taking the Lead





New Freedom Initiative

- Announced February 1st, 2001
- Aimed at young and old alike
- Provide elders and people with disabilities necessary supports to fully participate in community life.



Themes for a Government-wide framework

- Increasing Access to Assistive & Universally Designed
- Using Technologies to Expand Educational Opportunities for Americans with Disabilities
- Integrating Individuals with Disabilities into the Workplace
- Promoting Full Access to Community Life



The New Freedom Initiative - Objectives

- Full Enforcement of the Americans with Disabilities Act (ADA)
- Promotion of Home Ownership for People with Disabilities
- Swift Implementation of the Olmstead Decision
- Expansion of Transportation Options
- Creation of a Mental Health Commission



Community-Based Alternatives

Executive Order – #13217

- Directed DOJ, HHS, Education, Labor, Housing and Urban Development and SSA to “evaluate the policies and programs, statutes and regulations of their respective agencies to determine whether any should be revised or modified to improve the availability of community-based services for qualified individuals with disabilities”
- DOT, VA, SBA and OPM joined voluntarily



Community-Based Alternatives Executive Order – Consumer Participation

- Obligated the agencies to involve consumers, advocacy organizations, providers, and relevant agency representatives in the self-evaluation process
 - Written comments (8/27/01)
 - Studies & Policy Research
 - National Listening Session (9/5/01)
 - National Teleconference (8/15/01)
- More than 800 individuals and organizations provided comments through various mechanisms
- Individuals with a disability or family members accounted for about one-third of **all** written comments



The HHS Report – Delivering on the Promise

- Delivered March 25, 2002
- 5 Themes of Change
 - Coherent, Cost-Effective Structure, Administration and Financing
 - Promoting Independence Responsibility, and Consumer-Driven Services
 - Assistance to Families and Informal Caregivers
 - Coordination and Reduction of Fragmentation
 - Accountability and Fulfillment of Legal Obligations



Centers for Medicare and Medicaid Services Hard at Work

- Immediate HCBS reform
- Ambitious technical assistance strategy
- Systems Change Grants for Community Living
- Independence Plus Waiver Template
- August 13th Transitions letter
- NFI Open Door Forum Series
- Ticket to Work and Work Incentives Improvements Act
- President's FY 2004 Budget provisions



Immediate HCBS Reform

Reviewing Home and Community-based waiver regulations:

- to determine need for changes in light of changing ltc system
- to examine simplifying or eliminating requirements
- to clarify misunderstanding



Technical Assistance Strategy

- CMS is helping states help each other
- Promising Practices on the web at www.cms.hhs.gov/promisingpractices.
- 3rd Annual Systems Change Conference: Living and Working in the Community.
- HCBS.org



Systems Change Grants for Community Living:

\$125 m over two years to 48 States, 2
territories and D.C.

- Real Choice Grants
- Nursing Facility
Transition Grants
(State Program and
Independent Living
Centers)
- Personal Assistance
Services Grants



More Systems Change Grants in 2003

- Additional 40 million in FY 2003
- Request for Proposals expected to be released in May, 2003



Independence Plus

- Released May 9, 2002
- Two Application Templates for waivers allowing states to grant individuals and families personal control and choice
- Two Versions
 - 1915(c) Waiver
 - 1115 Demonstration



Transitions SMD

- Released May 9, 2002
- Clarifies some methods by which Home and Community-Based Services waivers under section 1915(c) may aid in the transitioning of individuals from institutional settings to their own home in the community through coverage of one-time transitional expenses



New Freedom Initiative Open Door Forum Series

- Series of teleconferences open to the public
- March – December, 2003
- Alternative to HCBS Task Force
- Focus on Medicaid reform actions to remove barriers to community living
- Allows for broadest array of participants on both aging and disability issues
- Includes those not able to travel
- Register:
<http://www.cms.hhs.gov/newfreedom/>



President's 2004 Budget: New Freedom Initiative

- “Money Follows the Person – Rebalancing Initiative
- Demonstration Programs
- Spousal Exemption
- Medicaid Presumptive Eligibility



It's in Congress's hands

- President's budget is just a “book of suggestions”
- Up to Congress to enact legislation.



What is “money follows the person”

Services and supports move with the person to the most appropriate setting

Market-based approach – free choice for individuals

More cost-effective decisions



“Money follows the person Rebalancing Initiative”

\$ 350 m each year for five years

\$1.75 B over 10 years

“Level the playing
field”

Services and supports
move with the
person to the most
appropriate setting

Market-based
approach – free
choice for
individuals

Create more cost
effective choices
between institutional
and community



States to develop coherent strategy for reducing reliance on institutions

- Services where “money follows the person” to the most appropriate and preferred setting.
- One year of federal funding for individuals who transfer with state paying thereafter.
- Single point of access for long-term supports including good, free information about options.



Model is based on successful state experience

- Wisconsin used approx. \$3.2 million (Medicaid and state-only funds) to transition 153 people over 2 years. Over 50% were elders.
- Texas rider allowed over 950 people to transition since the law was effective September, 2001. 60-70% were elders.



New Freedom Demonstrations

\$220 m over 5 years. \$11 m in FY 2004

To evaluate the impact on cost and utilization

- Adult Respite Care
- Children's Residential Treatment
- Children's Respite Care
- Direct Service Worker



Spousal Exemption

- Extends Medicaid eligibility for spouses of disabled individuals who return to work.



Medicaid Presumptive Eligibility

- Allows states to consider someone eligible for Medicaid and transition them into the community prior to final determination.
- If person determined not eligible, federal government would still pay federal share for first 90 days.



Our Shared Challenge

- To remain focused on opportunities in President's New Freedom Initiative budget in face of larger reform.
- To bridge the gaps between aging and disability issues.



Fulfill the Promise

People's of all ages who have a disability or long-term illness have a need and right

Choice

Value

Respect

Dignity