

THE NORTH DAKOTA OLMSTEAD COMMISSION
MEETING MINUTES OF
February 8, 2023
Job Service North Dakota, Bismarck and Virtual via Teams

Members Present: Wallace Goulet, Julie Horntvedt, Carlotta McCleary, Ryan Norrell, the Honorable Bruce Romanick, Veronica Zietz, and Scott Burlingame

Members Absent: Representative Alisa Mitskog, Senator Judy Lee, and Siobhan Deppa

Others Present: Daniel Gulya and Carrie Berland from P&A, Matt Schwarz, Brenda Schmid, Jacob Reuter, Michelle Woodcock, Kayla Trzruc, Jeannie Krull, Angela Dinius, Beth Larson-Steckler, Brittany Armstrong Hanson, Jennifer Henderson, Jessica Dargis, Nathan Leier, Rebecca Quinn, Carrie Varner, Trisha Page, Carrie Miller, Sheryl Beard, and Steven Beard

Co-Chair Goulet called the meeting to order at 1:05 pm.

Approval of Agenda: It was suggested to add an update on the Olmstead Coordinator vacancy to the agenda. The suggestion was adopted, and the agenda was accepted.

Approval of the October 18, 2022 Meeting Minutes:
The minutes were reviewed.

Motion: A motion to approve the minutes was made by the Honorable Bruce Romanick and seconded by Ms. Horntvedt. The motion passed.

Olmstead Commission Coordinator Update:

Ms. Zietz stated that Dan Gulya resigned as the Olmstead Coordinator in December, he is transferring to another position within P&A. We did put a job announcement out in early December and had one applicant, we put out a second announcement with no applicants. A third announcement will close on February 12th and there have been 2 applicants so far. The board will be contacted about interviews.

The Housing Incentive Fund:

Mr. Gulya stated one of the areas that the executive order tasks us with is having some familiarity with housing. Although the majority of what we tend to focus on is service provisions, whether that be education, employment or health services, but having a roof over somebody's head means that they have somewhere to go in the community. One of the key pieces to that, is the Housing Incentive Fund in North Dakota (HIF). The HIF is a pool of money that serves as a matching fund to draw down federal dollars to support low-income housing projects. Currently the Housing Finance Agency budget, House Bill 1014 is going through the legislature and includes an appropriation for the HIF. The Governor's recommendation is 25 million dollars.

Ms. Henderson is attending our meeting; she is the Planning and Housing Development Division Director at the ND Housing Finance Agency.

Ms. Horntvedt asked if there is any mention about inclusive, accessible, and affordable housing for people with disabilities?

Ms. Henderson stated that North Dakota Century Code related to the Housing Incentive Fund is quite broad and allows the agency to develop an annual allocation plan, which is required to go through public input and hearing for its development. Currently the allocation plan is written with scoring criteria that includes "Universal Design" which has accessibility features for a percentage of the units that are HIF funded. Accessibility features in "Universal Design" are above ADA requirements. We put them into our plan based on feedback and input from the Money Follows the Person Housing Initiative group. The allocation plan is currently in its drafting period. There will be a public comment period beginning February 14, with a public hearing scheduled for March.

Mr. Burlingame asked how the budget of 25 million dollars compares to past years' appropriations? Ms. Henderson stated that the appropriation has varied over the years, but the last funding received was \$9.5 million.

Mr. Gulya introduced Terry Hanson, Executive Director of the Grand Forks Housing Authority. He will talk to us on how the Housing Incentive Fund dollars translate in the community to affordable, accessible housing.

Mr. Hanson stated Senate Bill 2020 was brought to the legislature, asking for funding of \$50 million for the Housing Incentive Fund. That bill did not pass in committee and failed on the Senate floor.

Mr. Hanson believes there is a significant push within the legislature on the House Bill for the Housing Finance Agency, but increased the \$25 million request to a higher amount, with the suggestion to go back to \$50 million. There is support among some of the representatives in the House that feel that's worthy of consideration.

The Housing Incentive Fund can provide gap funding for the development of affordable housing in both rural and larger communities in the state. For example, if we're building a complex in Grand Forks, we can bridge the gap to cover increased interest rates making projects feasible, while keeping rents low. That means a couple things for ND; first is that 10% of the funds are required to go towards unmet housing needs and to alleviate housing shortages in all communities of the state. The second is at least 10% of the funds must be made available to prevent homelessness as authorized by Subdivision Section 3. Those funds go for rental assistance, emergency assistance, burial mitigation, or targeted supportive services designated to prevent homelessness. When we're talking about affordable housing, several do have occupants with disabilities. The funding can go to supportive services and other housing barriers.

System Assessment Presentation by Olmstead Plan Revision Consultant (TAC):

Mr. Gulya introduced Sherry Lerch with TAC-Technical Assistance Collaborative. Ms. Lerch stated TAC completed a system assessment as the first phase of developing a new Olmstead Plan. To get the baseline analysis, a total of 72 participants were interviewed including: 28 providers, 30 people with lived experience, and 14 family members. TAC received 80 responses from the online survey.

Ms. Lerch stated the purpose of this engagement is to generate updated information necessary for an effective working plan to support people with disabilities in the most integrated setting appropriate to their needs. TAC did a review of existing data and reports. The Olmstead Commission provided numerous reports and policy, quality, and procedural documents for review. TAC

looked at various agency websites, these documents offered details on system indicators and issues being tracked by the programs.

Summary of Findings: Strengths, Gaps and Challenges

- ND's geography presents challenges
- The state was among the first to apply to establish HCBS waivers in the early 1980s.
- The North Dakota Olmstead Commission was created in 2001 through executive order and charged with development of an Olmstead plan.
 - Initial Olmstead Plan in 2002, updated in 2008
- ND was an early adopter of Medicaid Expansion (2014)
- On December 14, 2020 North Dakota entered into a [Settlement Agreement](#).
 - The target population is individuals with a physical disability over the age of 21 who are eligible or likely to become eligible to receive Medicaid long-term services and supports.
 - Case management; person-centered planning; access to community-based services; education/information, screening, and diversion; in-reach; transition services; and housing services

Strengths of the system:

- The preferences and choices of families and individuals with disabilities in services were honored
- There is access to supported education/employment programs
- There is adequate information about the array of available programs and supportive services including community-based services
- Services are accessible for people with disabilities through the use of interpreters, assistive devices, and physical plant accommodations.
- Historical use of federal authorities and funding sources to support persons with disabilities (MFP, HCBS waivers, 1915(i) SPA)
- State funding support
- Impact of the Settlement Agreement

Areas for Improvement:

- North Dakota is in the bottom tier of peer states and below the national average for EPSDT screening and participation.
- Medicaid/CHIP penetration rates are lowest in the country
- Expenditures for Institutional and Congregate Care

- 2019 ranked 1st in LTSS spending, BUT ranked 43rd in spending on HCBS
- North Dakota's per person spend for ICF/IDDs is higher than that of many peer states, as well as the U.S. average
- Spends a greater percentage of its budget on institutional and other 24-hour care than on ambulatory community-based services.
 - Use of state psychiatric hospital beds at a proportionately higher rate than other states across the country; also higher readmission rates Satisfaction with behavioral health services are below the national average

Gaps in Care:

- Inadequate staffing in community-based settings
- Inadequate support services and treatment options at all levels of care that are appropriate to people's needs including crisis services, supported employment/education, and other community-based services
- Lack of services/supports in rural/frontier parts of the state
- Lack of transportation

System Challenges:

- Inadequate staffing in community-based service settings
- Inadequate crisis response services, particularly for children and youth, and for adults across the state (not just in urban areas)
- Providers need training to care for persons with higher levels of need
- DSP shortage for people with I/DD
- Money Follows the Person and HHS Behavioral Health Division is contracting with HSRI to address issues
- Case management capacity, Person-Centered Planning, Data
- Only 156 MFP transitions for people with ID/DD between 2007-2012
- 33% of people with a cognitive disability live in poverty in ND
- 35% of alleged ADA violations are due to lack of accommodation
- Poor educational outcomes for students with IDD
- LGBTQ2S+ youth and adults and Native Americans reported experiencing provider stigma, discrimination, and a lack of culturally sensitive services
- Indigenous populations are overrepresented in HSC service settings, Medicaid data, and in child welfare and criminal justice settings, compared to census estimates

Recommendations to Consider:

- Secure more state and/or federal funding.
- Provide a more comprehensive array of community-based treatment, therapeutic services, and supportive services that are appropriate to levels of care needed.
- Provide more opportunities for stakeholders to participate in/contribute to systems change.
- Assure access to community-based services and supports
- Increase access to integrated housing and community-based services through new and re-purposed funding
- Address systemic challenges and eliminate barriers to services
- Alleviate the acute care demand on the State Hospital
- Increase support for in-home approaches

Inquiries:

Mr. Gulya stated that transportation has been brought as an inquiry topic including transportation in general and specific rider problems with Bis-Man Transit. Mr. Gulya interviewed 2 individuals.

Bis-Man Transit

A female rider, that works for the legislature has had to contract with a private taxi service, Bismarck Transportation Service, at the cost of \$800.00 a month, which is significantly more than she would be paying if she was riding through Bis-Man Transit. When she rides Bis-Man Transit there is a lack of on time pickups and drop offs to the point where it disrupts her ability to carry out activities of daily life.

Mr. Gulya has asked the Executive Director of Bis-Man Transit for on time performance data, unfortunately it is broken out by rider. It might be useful to interview more riders to see how accurate the data is. The report shows on time performance data in the 90th percentile.

Ms. Varner stated that she is a rider on Bis-Man Transit and there are significant issues with fixed routes that need to be addressed. Some of the routes will not run because there are not enough riders.

Mr. Leier who is a paratransit rider, was also interviewed by Mr. Gulya. Mr. Leier stated paratransit is very seldom on time. He states they can manipulate the system to prove that they are on time.

Ms. Zietz asked if this could be the next deep dive for the Olmstead Commission to examine? We could invite individuals with personal experiences, a Bis-Man Transit representative, and a DOT representative to speak to us.

Ms. Beard stated that Minot does not have buses anymore, just cabs. Ms. Beard uses the Northwest Public Transit in Williston and stated that it's a good service that runs from Watford City to Crosby. She stated that the bus service will call when they are 30 minutes out and call 24 hours in advance to remind consumers of their rides. Ms. Beard also stated that if she uses her scooter in the summer, the bus driver will follow her to make sure that she gets to her destination.

Advisory Council Initial Meeting:

Jessica Dargis stated that it is important to know who is on the Commission, so we can share information and have an open forum for discussions. We want to be able to share our information and stories with you so that you understand. Ms. Dargis asked if they can attend quarterly meetings to share issues with the Commission? Mr. Gulya stated the Commission's meetings are public and additionally suggested that the Advisory Council may also have meetings with the co-chairs to share concerns.

Ms. Schmid stated we are coming with life experience, which is extremely valuable. I just appreciate the opportunity so much. It is important to know who we talk to about the issues impacting people with disabilities.

Guardianship Process/DD Housing Issue- Executive Session:

Ryan Norrell stated that Protection and Advocacy would have a conflict of interest with the guardianship/DD housing issue. Ms. Zietz would need to excuse herself, which would put the Commission at less than a quorum.

Motion: Julie Horntvedt made a motion to table the issue until the next meeting. Scott Burlingame seconded the issue. Motion passed.

Inquiry Process:

Mr. Gulya asked what does the individual inquiry process look like? How do we screen inquiries? What is the result? What are the members comfortable with? What are your aspirations for what that should look like? If somebody comes to us with a something, how does that come in the door? And what do we tell them we're going to be doing at the end of it?

Mr. Gulya noted, people want something tangible to result from the inquiry. Thus far, an individual inquiry has been, tell your story to us. I just want to make sure that everybody is OK with that. Is that how we should be proceeding in all examples? Are we looking at this as an individual inquiry process or individuals that have similar situations that could give rise to larger issues?

Mr. Norrell asked how the transit issue came to our attention?

Mr. Gulya stated that Senator Lee had shared the Olmstead Commission's inquiry process with someone working at the Legislature.

Mr. Norrell states it might be worth it on the front end of the inquiry to ask the individual how they would like to see this situation resolved, then at least we know what their expectation is, if it's reasonable, and if it's something we can address. The Legislature has the McCarthy Committee – it's never been used, but it's an investigatory style group that Legislature can convene, including subpoenas and holding people in contempt. If there is a big enough issue, they can go further down that route and push the issue. Depending on what the Commission decides, we could then make the recommendation in the form of a letter from the Commission, a letter to the Governor, a letter to the Legislature, etc.

Ms. Zietz stated that it would be valuable to find out what people's expectations are up front before we dig into something. She further noted the Olmstead Commission could really have impact if we use the inquiry process to help a group of people having the same issue. She would also like to see the Commission put together parameters, so we don't inappropriately expend the Commission's resources by duplicating services.

Ms. Horntvedt states that it could be one person's issue, but it may turn into a systems change effort that would benefit many. That way it could be a larger scale fix.

Mr. Norrell asked if this is an area where the Advisory Council be used? Triage the inquiry to see if it is a bigger problem or not?

Mr. Burlingame stated that we need to gather data on individual issues to look for trends and then prioritize what the most important issues are. I can almost guarantee that the pillars of advocacy are going to be housing, transportation, home and community-based services, and education.

Mr. Gulya states he thinks we can accept individuals coming in the door and do some amount of inquiry, and if it's a larger issue then it would be our purview to do more. If it is something that has an individual in scope, that would not rise to the level of an Olmstead violation, at that point what does screening look like? Is it the Coordinator with a couple of members that decides if it should be considered for a public inquiry and how do we turn things around in a reasonable amount of time?

Ms. Zietz stated that every inquiry needs to be acknowledged, whether we take it or not. It can be in the form of a letter, letting them know that we received their inquiry. If we do take it let them know how we plan to address the issue and the results. She states we put a lot of time and energy into the LSTC/Autism issue and it feels unfinished.

The Commission contacted Ms. McCleary to make a quorum.

Motion:

Ms. Zietz made a motion that the Olmstead Commission provide a formal written response to the previous inquiry from the Autism Task Force. Mr. Burlingame seconded. The motion passed.

Ms. Horntvedt stated that she would help with the letter along with Ms. Zietz.

Meeting was adjourned at 4:58 pm Ryan Norrell.