

APR 18 2000


REBECCA McDOWELL COOK
SECRETARY OF STATE

WHEREAS, the United States Supreme Court issued its decision in *Olmstead v. Zimring*, 119 S.Ct.2176, 144 L.ED 2d 540 on June 22, 1999; and

WHEREAS, the Court in *Olmstead* held that the proscription of discrimination in Title II of the Americans with Disabilities Act may require placement of persons with disabilities in community settings rather than institutions; and

WHEREAS, the Court in its decision further stated that placement in community setting is appropriate where the following criteria have been met: (1) the state's treatment professionals have determined that community placement is appropriate; (2) the affected individual with the disability is not opposed to transfer from institutional care to a less restrictive setting; and (3) the placement of the individual in such a setting can be reasonably accommodated taking into account the resources available to the state and the needs of others with mental disabilities. *Olmstead v. Zimring*, 119 S.Ct. 2176, 2189; and

WHEREAS, as Governor of the State of Missouri, I am committed to ensuring access to care and the provision of services to individuals with disabilities in accordance with the Americans with Disabilities Act; and

WHEREAS, this administration is committed to helping individuals with disabilities live more independently; and

WHEREAS, programs such as Home & Community-Based Services and Consumer-Directed Care empower individuals with disabilities by allowing them personal choice and independence; and

WHEREAS, this administration has increased the number of such programs within the state by pursuing waivers like the MRDD Waiver, Sarah Jian Lopez Waiver, Aged and Disabled Waiver, Physically Disabled Waiver, AIDS/HIV Waiver, and Independent Living Waiver; and

WHEREAS, this administration has consistently advocated and increased the level of funding for such programs, as demonstrated by the growth in funding from fiscal year 1993 through fiscal year 2000 from approximately \$247 million to approximately \$500 million; and

WHEREAS, this administration has recommended more than \$540 million for fiscal year 2001 to fund programs for Missourians with disabilities; and

WHEREAS, the State of Missouri is committed to ensuring that individuals with disabilities receive care and services in a manner that fosters independence and in a manner that is appropriate for their needs.

NOW THEREFORE, I, Mel Carnahan, Governor of the State of Missouri, by virtue of the powers vested in me through the Constitution and the laws of the State of Missouri do hereby establish the Home and Community-Based Services and Consumer-Directed Care Commission:

The objective of the Commission shall be to develop a "comprehensive, effectively, working plan," as recommended by the U.S. Supreme Court in its recent decision in *Olmstead v. Zimring*, 119 S.Ct. 2176, 2182.

The Commission shall be composed of 15 members:

- 1) Four (4) of the members shall be the Directors of the Departments of Social Services, Mental Health, Health and the Commissioner of the Department of Elementary and Secondary Education or their designees.

- 2) Four (4) of the members shall be selected from the Governor's Council on Disability.
- 3) Three (3) of the members shall be individuals with disabilities who are consumers of services or family members.
- 4) Four (4) of the members shall be selected from the Missouri General Assembly. Two (2) shall be appointed by the President Pro Tem of the Senate and two (2) shall be appointed by the Speaker of the House of Representatives.

The Director of the Department of Social Services or his designee and the Director of the Department of Mental Health or his designee shall co-chair the Commission. The Commission shall meet on at least a monthly basis.

The Governor's Council on Disability shall assist the Commission by designating the Council's Executive Director as the primary staff person to the Commission.

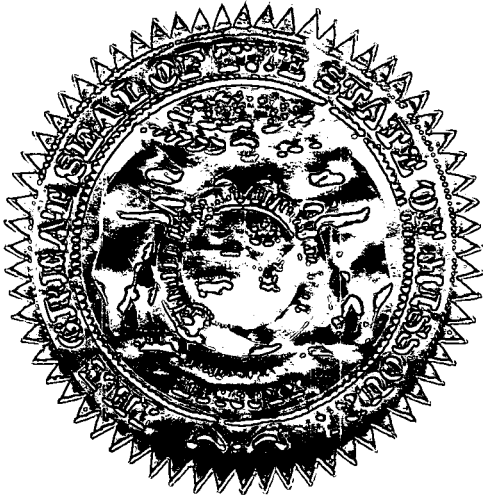
The Commission shall serve at the pleasure of the Governor and shall receive no compensation for duties performed, but shall be reimbursed for their travel and travel-related expenses incurred as a result of their participation on the Commission. Such expenses shall be paid from the operating appropriations of the Departments of Social Services, Health, Mental Health and Elementary & Secondary Education.

The Commission shall engage in the following activities:

- 1) Identify the current number of and current level of funding for home and community-based services and consumer-directed care programs for individuals with disabilities in the State of Missouri;
- 2) Develop a tool or mechanism for assessing the effectiveness of these services and programs in addressing the needs of individuals with disabilities;
- 3) Identify the number of individuals with disabilities in the State of Missouri that are institutionalized;
- 4) Identify the number of waiting lists for home and community-based services or consumer-directed care programs and evaluate the pace at which individuals move from these lists;
- 5) Examine whether existing programs and services provide individuals with disabilities who may be eligible for community-based treatment with information regarding this option;
- 6) Recommend any modifications or changes that may be needed to improve existing home & community-based services and consumer-directed care programs;
- 7) Recommend any potential means of expanding home & community-based services or consumer-directed care programs; and
- 8) Develop a process for transitioning individuals with disabilities who are institutionalized and who are eligible for community-based treatment into community-based treatment settings.

The Commission shall engage in any additional activities deemed necessary to accomplish the specified objective.

FURTHER, the Commission shall submit a written progress report to the Governor by September 1, 2000, and shall submit a working plan to the Governor by December 31, 2000.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson, on this 18th day of April, 2000.


GOVERNOR

ATTEST:


SECRETARY OF STATE