

# The Capitol Insider for the Week of January 30

## Action Alert

Act quickly - House to Vote on Repeal of CLASS

## Major Events Last Week

### Civil Rights/ADA – Department of Justice reaches agreement with Virginia

The Department of Justice (DOJ) reached a settlement agreement with the Commonwealth of Virginia that will avoid costly litigation. Under terms of the settlement, Virginia will cease operations at four of its five training centers for people with intellectual and developmental disabilities (I/DD) by 2021 and will assist individuals receiving home and community-based waiver services to live in the most integrated setting consistent with their informed choice and needs. The state will facilitate individuals living in their own homes, leased apartments, or families' homes by creating a dedicated housing service coordinator position and creating an \$800,000 fund to provide and administer rental assistance to individuals who receive HCBS waiver services. Under terms of the agreement, no individuals may be placed in a nursing facility or any setting with five or more individuals unless the placement is consistent with the individual's needs and informed choice.

The state must create 4,170 new waiver slots for people currently residing in any of the state's five Training Centers (currently about 1,000 individuals), people with intellectual disabilities who are on the state's "urgent" waiting list for waiver services, people with ID who are under 22 and live in facilities other than the training centers, people with DD who are on the state's waiting list for waiver services and for people with DD who are under 22 and live in facilities other than the training centers. The state also will create an individual and family support program for 8,700 individuals with I/DD most at risk of institutional placement.

Virginia must set up an independent case management system to ensure that individual support plans (ISP) that are person-centered are developed, to assist individuals in accessing needed services, and to monitor implementation of the ISPs. Statewide crisis services, including mobile crisis teams, must be in place to prevent the removal of an individual from his or her home. Virginia must establish an "Employment First" policy (supported employment in integrated work settings where they are paid minimum or competitive wages is the first and priority service option for individuals) and provide integrated day opportunities, including supported employment, to the greatest extent practicable. The state must provide data and set targets to increase the number of individuals who enroll in supported employment and who are employed in integrated work settings for at least 12 months.

Detailed plans for helping individuals transition from institutional settings to community settings and establishing a quality and risk management system are outlined in the agreement. An independent reviewer will oversee the settlement agreement for the court which retains jurisdiction.

To view The Arc's statement in response to this agreement visit our [blog](#).

### Social Security – House hearing on Disability Waste, Fraud, and Abuse

The House Committee on Ways and Means Subcommittee on Social Security held a hearing in which the Social Security Administration's (SSA's) efforts to minimize improper payments and protect taxpayers' dollars from waste, fraud, and abuse were highlighted. In her testimony, SSA's Deputy Commissioner Carolyn Colvin noted that the Social Security program "is the most accurate in the Federal Government" in terms of payment accuracy. This was the second hearing in a series on "Securing the Future of the Social Security Disability Insurance Program." Testimony and archived video of the hearing will be available on the Committee web site.

Family Support – Senate bill introduced to reauthorize the Older Americans Act

On January 26, Senator Bernie Sanders (I-VT) introduced a bill (S. 2037) to reauthorize the Older Americans Act. Among other things, the Older Americans Act authorizes the National Family Caregiver Support Program (FCSP) to provide: 1) information to caregivers about available services, 2) assistance to caregivers in gaining access to the services, 3) individual counseling, 4) organization of support groups, and caregiver training, 5) respite care, and 6) supplemental services, on a limited basis. Unfortunately, these critically needed services are unavailable to the majority of caregivers of persons with I/DD as caregivers of persons with disabilities who are under the age of 60 are not eligible for the FCSP. Family support needs of persons with I/DD are particularly acute and growing. According to The Arc's Family and Individual Needs for Disability Supports (FINDS) survey, most family caregivers of persons with I/DD provide more than 40 hours of care per week (including 40% who provide more than 80 hours of care per week). In addition, there are over 730,000 aging caregivers of persons with I/DD who require greater assistance in managing their caregiving responsibilities for their adult children. As our society continues to depend on family caregivers, it is essential to meet their needs in order to continue providing care in the community instead of more costly and unwanted institutions. The Arc will work to ensure that caregivers of individuals with disabilities under the age of 60 are eligible for services under the FCSP.

#### Announcements

##### Employment – Oregon Class Action Lawsuit Seeks an End to Sheltered Workshops

A class action lawsuit, filed in U.S. District Court, charges Oregon state officials with violating the Americans with Disabilities Act and the Rehabilitation Act by failing to provide supported employment services to more than 2,300 state residents with disabilities who currently work in segregated sheltered workshops. The lawsuit, *Lane v. Kitzhaber*, seeks an injunction requiring the state to provide “an adequate array of integrated employment and supported employment services, as to avoid unnecessary segregation” and to provide supported employment services in integrated settings for all state residents currently employed in sheltered workshops. Review the complaint.

##### ADA / Employment Discrimination

The Equal Employment Opportunity Commission (EEOC) received more complaints of disability employment discrimination in fiscal year 2011 than the previous year – 25,742 compared to 25,164; and produced an increase in monetary relief over last year - \$103.4 million compared to \$76.1 million. EEOC also received 245 allegations of discrimination under the Genetic Information Nondiscrimination Act (GINA).