

Upholding the Rights of People with Disabilities During the Coronavirus Pandemic

For decades, self-advocates, parent advocates, and allies have fought to promote and protect the human rights of individuals with disabilities, which have been advanced through the Americans with Disabilities Act, the Olmstead Decision, Medicaid Home & Community Based Services (HCBS) waiver programs, the HCBS Rule, the Employment First policy, and more.

As we work to maintain the health and safety of people with disabilities - as well as their families and support professionals - throughout the COVID-19/coronavirus pandemic, **it is imperative that we uphold individuals' rights, as well as the core principles of equity, self-determination, and true belonging in community.**

Our organizations fight to maximize inclusion and true belonging for people with disabilities of all ages, in all areas of life, as we work to build a more equitable society.

We believe that all policies at the state and federal levels must reverse the history of overprotecting and involuntarily segregating people with disabilities. Policies must also create opportunities for individuals to receive respectful support and gain/retain authority to make decisions, exert control in their lives, and advocate on their own behalf.

These foundational values must not be compromised, even as the COVID-19/coronavirus pandemic places constraints on society and systems. In all efforts to mitigate the impacts of this outbreak – including emergency response planning, public health policy development, and restructuring rules/regulations – we must balance what is important *to* the individual with what is important *for* the individual.

Furthermore, it is essential that the right of people with disabilities to make their own choices be upheld – including choosing who provides assistance related to bodily functions, daily life, and individual needs. As the outbreak continues to spread, people with disabilities will need ongoing supports in order to remain healthy in their homes. We have already seen this public health crisis strain service systems - especially the availability of staff, given the existing workforce shortage, anticipated worker illness and self-quarantine, and specific provider closures.

To ensure that the response to this crisis is equitable and effective, elected officials, state agencies, and service providers must strive for consistent and fair treatment to protect everyone's health and safety while giving due consideration to and respecting individuals' rights.

To this end, we urge strong consideration and implementation of the following recommendations during the COVID-19 outbreak:

- Ensure that any guidance for the care and treatment of individuals with disabilities who are experiencing symptoms of, or have been diagnosed with, COVID-19 protects their access to vital health care services.
- Ensure that Crisis Standards of Care and other medical intervention protocols never discriminate against people with disabilities.

- Follow up-to-date guidance from the Centers for Disease Control, the Centers for Medicare & Medicaid Services, the Minnesota Department of Health, and the Minnesota Department of Human Services.
 - Again, such guidance must *never* jeopardize individuals' access to health care services and critical medical interventions.
 - As emphasized by the Minnesota Department of Human Rights, care should be taken to ensure that policies intended to promote health and safety do not discriminate against people based on their disabilities.

- Develop facility or agency-wide policies and procedures regarding testing, use of personal protective equipment, protective hygiene, social distancing, self-quarantining, and isolation to protect the health and safety of employees and individuals accessing services.

- Only implement restrictions on individuals with disabilities that are the least restrictive means to maintain health and safety.
 - Whenever restrictions are implemented, the individual's service team should be consulted prior to imposing the restriction, and must be notified in all cases within 24-hours of imposing any restriction.
 - The restriction must also be documented in the individual's support plan, consistent with Minn. Stat. section 245D.04, subd. 3(c).
 - The restriction must be reviewed periodically - at least every two weeks to ensure that it remains both necessary and is the least restrictive means for ensuring health and safety.

- Adopt only necessary restrictions governing who may come and go from home & community based residential settings, and apply those restrictions equitably to all, including clients/residents, staff, management, and visitors.
 - Restrictions on visitation should only be put in place as necessary, and with the ability to make exceptions required to meet clients' socio-emotional, religious, and overall health needs.
 - Any restriction on whether clients/residents may leave and return to the setting must not be more onerous than rules for staff/management.
 - Add COVID-19 testing capacity to community based residential settings to facilitate autonomy and independence.

- If restrictions on visitation must be implemented:
 - Continuously balance the need to keep people physically safe and healthy with socio-emotional and mental health needs, in order to prevent the ill-effects of isolation
 - Be consistent with guidelines issued by CMS for screening visitors in health care facilities, and assess the following:
 - International travel within the last 14 days to restricted countries;
 - *For updated information on restricted countries visit:*
<https://www.cdc.gov/coronavirus/2019-ncov/travelers/index.html>
 - Signs or symptoms of a respiratory infection, such as a fever, cough, and sore throat;
 - Contact with someone confirmed or suspected to have COVID-19.
 - *While these guidelines do not apply to community residential settings, they are a reasonable tool for providers to adopt.*

- Evaluate the health and socio-emotional needs of each individual to determine whether it is necessary to make reasonable modifications to overarching policies in individual cases.
 - Minimize the adoption of inflexible or “absolute” policies that prohibit exceptions or modifications in appropriate cases.
 - Consider alternative ways of keeping people connected to family and their communities (scheduling periodic telephone calls, using Skype or FaceTime, etc).

As we navigate and manage the COVID-19/coronavirus pandemic, advocacy organizations seek to work alongside elected officials, state agencies, service providers, and families as collaborative partners: offering information, technical assistance, and systems-wide perspectives/insights. Now more than ever, we must work together to ensure that the rights of individuals with disabilities are upheld while collectively responding to this public health crisis.

Respectfully,

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