

## **Governor Christie Announces Settlement of *Olmstead* Litigation During Budget Address**

Governor Christie used the occasion of his budget address to announce a settlement in litigation brought by Disability Rights New Jersey involving moving individuals who no longer want to live in the state's developmental centers and providing services to individuals in the community on the Division of Developmental Disabilities' waiting list.

Specifically, the Governor stated, "Today, I am proud to announce that we have settled an eight-year-old *Olmstead* lawsuit with Disability Rights New Jersey. The suit claimed that New Jersey was not complying with U.S. Supreme Court mandates to allow people with developmental disabilities to live in the least restrictive and most appropriate setting. In response, we have increased funding for community-based services; we have reduced the waiting list for in-home supports and services, and we have expanded group homes and supported living options."

"We all know New Jersey's sad history of over institutionalization. We have institutionalized more citizens than any state other than Texas. It is shameful. It is ineffective. And, in this Administration, it is ending. We are allowing people with disabilities to live where they and their families want them to live: at home, in the community, among family and friends. So this suit is settled."

In addition to moving community-eligible individuals out of the developmental centers, the settlement commits the Commissioner of the Department of Human Services to seek additional funding annually to increase service capacity in the community and to establish an independent hearing process to challenge an unwanted admission to a developmental center.

The settlement agreement resolves two lawsuits filed against the Department of Human Services. The first, filed in 2005, sought, pursuant to the U.S. Supreme Court's decision in *Olmstead v. L.C.*, 527 U.S. 581 (1999), the discharge from the developmental centers of individuals who do not oppose community placement and whose treatment professionals have determined that community placement is appropriate. The second lawsuit was filed in 2008 and sought to reduce the extraordinary length of time individuals were on the waiting list waiting for services from the Division of Developmental Disabilities.

The settlement agreement provides that all individuals determined to be community placement-eligible, currently about 600 persons, will be discharged to the community by the end of June 2017, and new admissions will have to be determined to be necessary for the individual's health, safety, and welfare after all reasonable and appropriate alternatives have been attempted and exhausted prior to admission.

The settlement agreement also includes funding for a consultant to be involved in assisting the Division to identify and implement best practices and to identify barriers to the successful completion of the settlement agreement. The agreement also includes funding for DRNJ to monitor the implementation of the agreement and to provide representation to individuals seeking discharge from or to prevent admission to a developmental center.

Assisting DRNJ as co-counsel in the litigation were Pepper Hamilton; Lowenstein Sandler; and Ballard Spahr.