

The Boston Center for Independent Living (BCIL) opposes the request of Betty's Village to receive HCBS (Home and Community-Based Services) funding from Nevada's Division of Health Care Financing and Policy (DHCFP). BCIL serves over 4,000 people with disabilities in the Boston area each year, providing services and advocacy to help each individual meet their goals and live independently in their community.

By its own description, Betty's Village does not meet the community integration standards the Centers for Medicare and Medicaid and Services (CMS) mandated in its January 2014 Final Rule on HCBS settings. Under the new rule, residential HCBS settings must be integrated into the community and must include meaningful safeguards for residents' autonomy, privacy, and access to the community. The final CMS regulations support the historic 1999 Supreme Court decision *Olmstead v. L.C.*, which held that the States must provide people with disabilities with "community-based treatment" and appropriate supports, 527 U.S. 581, 607 (1999). Over the course of the past two years, states have begun to submit Transition Plans to CMS which are designed bring state settings into compliance with the final CMS rule and the Supreme Court's decision in *Olmstead*.

In recognition of the particular risks associated with provider-owned residential settings, the Final Rule includes additional requirements for such settings. Residents in provider-owned settings must, among other things, have lockable doors, access to food or visitors at any time, and be physically accessible. 42 C.F.R. §§ 441.301(c)(4)(vi), 441.530(a)(1)(vi), 441.710(a)(1)(vi)).

In addition, the Final Rule bars HCBS funding from going toward settings that isolate people with disabilities - such as those on the grounds of a hospital or those that cluster people with disabilities together in a remote area - even if those settings might theoretically meet the additional requirements for provider-owned settings. A setting that isolates people with disabilities must be individually approved by CMS through a "heightened scrutiny" process and will not be approved to receive HCBS funding unless it overcomes the presumption that it has the characteristics of an institution.

Betty's Village, which would provide services to hundreds of people with disabilities clustered onto a single campus, meets neither the requirements of provider-owned settings nor the requirements of the HCBS heightened scrutiny approval process. Betty's Village is isolated from the broader community, is disability-specific, and uses behavioral interventions normally used in institutional settings (Such as progressive prompting sequences designed to, according to Betty's Village, "de-escalate inappropriate behavior," written behavior programs, and medication used to control the person's behavior). CMS' guidance on HCBS states that settings with these characteristics generally isolate individuals from the broader community and are considered similar to institutions.

In addition, the proposal by Nevada's Division of Health Care Financing and Policy (DHCFP) to finance additional segregated settings instead of financing the development of new, integrated residential settings violates the integration mandate in *Olmstead*. Settings like Betty's Village segregate people with disabilities from their communities and greatly limit their autonomy.

People with disabilities must be supported in living integrated within their communities and making their own decisions. Please reject the HCBS funding request from Betty's Village.