

Federal Complaint Filed Against Virginia:

Commonwealth Still Promoting Institutionalization of People with Disabilities

Today, Quality Trust for Individuals with Disabilities and the National Alliance on Mental Illness of Virginia filed a Complaint with the Federal Office for Civil Rights stating that Virginia is violating the Americans with Disabilities Act by requiring people with disabilities to live in segregated group homes - which the Commonwealth admits are institutions - in order to receive benefits under a state program.

Virginia's Auxiliary Grant program serves over 6,000 people, the majority of whom have disabilities and other physical or mental impairments. The program is designed to supplement recipients' Supplemental Security Income ("SSI") to help them maintain a standard of living that meets a basic level of need. The law creating the program provides additional benefits to recipients that live in group homes or adult foster care, but does not require people to live in those settings in order to participate in the program or receive basic benefits.

Unfortunately, the regulations issued by the Virginia Department of Social Services ("DSS") say that people must live in group homes or adult foster care in order to receive any benefits from the program. As a result, even though a 2008 study by Virginia's Secretary of Health and Human Services found that recipients could afford one or two bedroom apartments anywhere in Virginia if they could use their Auxiliary Grant funds to live in housing of their choice, recipients must live in segregated, isolated settings that even DSS refers to as "institutions."

The Complaint gives examples of two people, who are not named to protect their identities. Each has been institutionalized in Virginia's large state-run institutions before, but has been found to be able to live in the community with appropriate supports. If they could use their Auxiliary Grant funds to live in housing of their choice, their care providers believe they could live successful, productive lives and receive the support they need. However, because the DSS regulations prevent them from doing so, and because they have been denied housing by facilities that accept Auxiliary Grant funds, they have had extreme difficulty finding places to live and are at risk of being re-institutionalized.

"Over a decade ago, the Supreme Court said that unjustified institutionalization of people with disabilities violates the Americans with Disabilities Act," said Quality Trust's Legal Director, Jonathan Martinis. "It's sad to say that, less than a year after Virginia finally agreed to begin moving people out of its state-run institutions, the Commonwealth is essentially requiring people to go from one type of institution to another."

"People with disabilities want what most people want - the ability to live independently in the community, close to family and friends, where employment and community involvement is possible," said Mira Signer, Executive Director of NAMI-Virginia. "The current auxiliary grant program does not allow for this. It's time for Virginia's program to catch up with the needs and wants of people with disabilities."

Please contact Jonathan Martinis at (202) 459-4007 or Mira Signer at (804) 285-8264 with questions or to request a copy of the Complaint.