***Steward v. Perry* ADA Interim Settlement Fact Sheet**

The United States Department of Justice, the private Plaintiffs and the State of Texas have entered into an Interim Agreement intended to enable Texans with intellectual and other developmental disabilities who are 21 years of age or older to live in community settings rather than nursing facilities.  The two-year Interim Agreement will serve at least 635 people with disabilities who are currently in nursing facilities or who are at serious risk of having to enter a nursing facility. The Interim Agreement calls for the State to begin expanding community alternatives to nursing facilities for persons with such disabilities, while the parties pause their ongoing litigation and negotiate a comprehensive settlement of all remaining issues in the case.

* Overview
  + The Interim Agreement partially addresses the Civil Rights Division’s finding and the private Plaintiffs’ allegations that the State of Texas failed to serve individuals with intellectual and developmental disabilities in the most integrated setting appropriate to those individuals’ needs, in violation of the Americans with Disabilities Act (ADA) and *Olmstead v. L.C*. In addition, the Interim Agreement pauses the ongoing litigation in *Steward v. Perry* under the ADA and *Olmstead.*
  + The Interim Agreement requires the State to expand community-based services through Medicaid waivers and individual supports for over 600 people with developmental disabilities who are unnecessarily living in nursing facilities or who are at risk of unnecessary institutionalization in nursing facilities. The Interim Agreement begins to offer the opportunity to live an integrated life to some of the thousands of people with developmental disabilities currently segregated in Texas’s nursing facilities and ensures that they will receive specialized services while they are still in nursing facilities.
  + Under the Interim Agreement, the State will begin providing community-based case management, educational activities about community living options, transition planning for people who want to move to the community, and services and systems to transition people to the community and divert others from admission to nursing facilities.
  + The Interim Agreement will help the State focus its resources on safe, individualized, and cost-effective community-based services that promote integration and independence and enable individuals to live, work, and participate fully in community life.
* Relief in Interim Agreement
  + Expansion of Community Services
    - Beginning in September 2013, the State will provide 635 home and community-based Medicaid waivers to help individuals with intellectual and other developmental disabilities leave nursing facilities and to prevent the unnecessary institutionalization of individuals who are at risk for entering nursing facilities.
      * 360 Home and Community-based Services waivers to transition individuals residing in nursing facilities to the community over the next two years.
      * 150 Home and Community-based Services waivers and 125 Texas Home Living Program waivers for individuals at-risk of admission to nursing facilities over the next two years.
    - Individuals with “related conditions” (e.g., cerebral palsy), who are living in a nursing facility or at risk of entry into a nursing facility, will be included in the State’s Home and Community-based waiver program.
  + Service Planning and Provision of Services
    - The State will conduct an assessment of all Texas nursing facility residents by August 31, 2014, to ensure that all residents who have an intellectual or other developmental disability are identified.
    - Service Planning Teams and Service Coordinators will be provided for all adults with a developmental disability who live in a nursing facility or are diverted from entering a nursing facility.
      * Service Planning Teams will convene at least quarterly, develop—through a person-centered process—a service plan to transition and serve each individual in the most integrated setting, monitor implementation of that plan, and provide the specialized services the individual needs while in the nursing facility.
      * Service Coordinators will meet face-to-face with individuals at least monthly, help implement the service plan, and educate individuals and families about available community supports and services. Service Coordinators will not be employed by the nursing facility.
    - Adequate medical, nursing, and nutritional management supports and services will be provided in the community.
    - Access to an array of integrated day, employment, recreational and other activities will be provided.
  + Transition Planning
    - Information about community living options will be offered to individuals with intellectual and other developmental disabilities in nursing facilities at least every six months to allow individuals to make informed choices about where they want to live.
    - Community Living Discharge Plans will be developed for individuals who wish to transition to the community to ensure essential supports are in place before the individual moves.
    - Individuals who want to move and are eligible for a community-based waiver will be enrolled in a waiver within 180 days from the date that a waiver slot becomes available and will have opportunities to visit homes beforehand.
  + Nursing Facility Diversion
    - Individuals with developmental disabilities will be identified before they are admitted to a nursing facility.
    - Individuals at risk of admission to nursing facilities will be educated about community alternatives to nursing facilities.
    - The State will establish Diversion Coordinators to identify and arrange community services for individuals at-risk of nursing facility placement so they can avoid being admitted to a nursing facility.
  + Implementation and the Comprehensive Agreement
    - The Interim Agreement provides for a mutually agreed upon Expert Reviewer to assist the Parties in developing outcome measures to determine progress toward these reforms.
    - The Expert Reviewer will assist the Parties in developing protocols to gather data and ensure individuals’ needs are being met.
    - The Parties will continue negotiating a comprehensive settlement agreement, expected to be complete within 150 days but may be extended if needed.