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February 15, 2012

Inspector General of the DOJ  
950 Pennsylvania Ave. NW  
Suite 4706  
Washington, DC 20530-0001

Dear Inspector General,

The tyranny of federally funded public policy over democratic values has become apparent: By denying appropriate residential choice via a mandate to close public ICF's for our most severely challenged persons with intellectual disabilities, the Department of Justice is violating the most fundamental rights of freedom and self-determination guaranteed by the DD Act.\*

The distortion of the Olmstead Decision says it all:

The Olmstead decision (U.S. Supreme Court, 1999) simply stated that when an individual does not want to remain in an institutional setting, and the professionals agree with the individual, and the State has the funding, the individual should be placed in a community setting. However, Justice Ginsberg clearly stated:

**“We emphasize that nothing in the ADA or its implementing regulations condones termination of institutional settings for persons unable to handle or benefit from community settings.”**

The DOJ has lost sight of individuals. In one broad stroke it will wipe out a meaningful residential option for our most challenged citizens with intellectual disabilities, with no reasonable solutions.

The “community” alternative does not address the serious limitations of our more dependent people. The fundamental issue of safety cannot be resolved by a “community” which often makes them victims of molestation, neglect and abuse.

Federal Medicaid policy supports an individual's right to choose where they receive Medicaid services for which they are eligible. States are required by Federal law to offer individuals who are eligible for Medicaid Home and Community Based Waiver services the choice between community-based care under the waiver program or institutional services.

We respectfully urge you to take action to remedy this deplorable situation.

Sincerely,

Lila Klausman, Pres.  
Parents Planning Programs (PPP)  
Member, Family Care Council Area 7, Agency for Persons with Disabilities  
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\*“Individuals with Developmental Disabilities and their families are the primary decision makers regarding the services and support such individuals and their families receive including regarding choosing where the individuals live from available options, and play decision-making roles in policies and programs that affect the lives of such individuals and their families.” Developmental Disabilities Assistance and Bill of Rights Act, 423 U.S.C., S2001 (c)(3).