

Congress of the United States
House of Representatives
Washington, D.C. 20515

July 23, 2026

Dear Acting Attorney General Blanche and Assistant Attorneys General Dhillon and Gaiser:

We urge the Department of Justice (DOJ or the Department) to immediately rescind its shocking June 18, 2026, Office of Legal Counsel Opinion (Opinion)¹ that, if implemented, would gut enforcement of the Supreme Court's landmark decision in *Olmstead v. L.C.*² and betray the law's promise of societal integration for people with disabilities.

In the decades prior to *Olmstead*, people with disabilities were often institutionalized without their consent because of reigning societal prejudices and stigma. The *Americans with Disabilities Act*³ (ADA), passed by overwhelming bipartisan majorities in Congress, rightly identified this form of institutional isolation as a huge civil rights problem and made the integration of people with disabilities into society a legal and moral imperative. As President George H.W. Bush said when he signed the ADA into law: "This act is powerful in its simplicity. It will ensure that people with disabilities are given the basic guarantees for which they have worked so long and so hard: independence, freedom of choice, control of their lives, the opportunity to blend fully and equally into the rich mosaic of the American mainstream."⁴

The Supreme Court's decision in *Olmstead* made the ADA's promise a reality for people who remained segregated in institutions even after its passage. The Opinion, if adopted as enforcement policy, calls into question whether *Olmstead* requires integration of people with disabilities to the greatest extent appropriate. It would represent a stunning reversal of decades of effort on the part of the

¹ Application of the Rehabilitation Act and Americans with Disabilities Act to State Institutionalization of Patients with Severe Mental Illness or Disabilities, slip op. (Jun. 18, 2026), <https://www.justice.gov/olc/media/1446701/dl>; Scott MacFarlane, Jacob Rosen, & Julia Kimani Burnham, *Trump Administration's Claims of So-Called "Reverse Discrimination" Upend DOJ Civil Rights Division*, CBS News (Jan. 19, 2026), <https://www.cbsnews.com/news/justice-department-reverse-discrimination-civil-rights-division/>.

² *Olmstead v. L.C.*, 527 U.S. 581 (1999).

³ 42 U.S.C. §§ 12131–12134.

⁴ Remarks of President George H.W. Bush at the Signing of the Americans with Disabilities Act (July 26, 1990), https://archive.ada.gov/ghw_bush_ada_remarks.html.

Department across multiple Democratic and Republican administrations to enforce *Olmstead* which held that unjustified segregation of persons with disabilities constitutes discrimination in violation of Title II of the ADA and Section 504 of the *Rehabilitation Act*.⁵

The bipartisan consensus behind the ADA did not diminish in *Olmstead*'s wake. The ADA notes that "historically, society has tended to isolate and segregate individuals with disabilities, and, despite some improvements, such forms of discrimination against individuals with disabilities continue to be a serious and pervasive social problem."⁶ The Supreme Court's subsequent ruling in *Olmstead* did not represent a liberal or conservative viewpoint. In the wake of the decision, then-President Clinton heralded it as "uphold[ing] the purposes of the ADA by recognizing that unjustified isolation of institutionalized persons with disabilities is prohibited discrimination."⁷ The next Administration followed suit. In June 2001, President George W. Bush issued Executive Order 13217, which affirmed the commitment of the United States to implement community-based alternatives for disabled individuals and declared unequivocally that "unjustified isolation or segregation of qualified individuals with disabilities through institutionalization is a form of disability-based discrimination prohibited by Title II of the [ADA]" as confirmed by the Supreme Court in *Olmstead*.⁸ The Executive Order went on to instruct federal agencies to work to ensure the swift implementation of the *Olmstead* decision in cooperation with the states, including by investigating and resolving complaints alleging unjustified institutionalization.⁹ The ADA and the Court's interpretation in *Olmstead* was affirmed through the *ADA Amendments Act of 2008*, which Congress passed on an overwhelmingly bipartisan basis and President George W. Bush signed into law.¹⁰ We note that the first Trump Administration supported states' efforts to rebalance their systems in favor of more home and community-based services (HCBS), as evidenced by the Centers for Medicare & Medicaid Services releasing a "Rebalancing Toolkit" in November

⁵ 29 U.S.C. § 794. *Olmstead* held in particular that public entities must provide community-based services when (1) such services are appropriate; (2) the affected persons do not oppose community-based treatment; and (3) community-based services can be reasonably accommodated, taking into account the resources available to the public entity and the needs of others who are receiving disability services from the entity. *Olmstead*, 527 U.S. at 587.

⁶ 42 U.S.C. § 12101(a)(2).

⁷ William J. Clinton, *Statement on the Supreme Court Decision on the Americans with Disabilities Act*, Public Papers of the Presidents, 35 Weekly Comp. Pres. Doc. 1170 (June 22, 1999).

⁸ Exec. Order No. 13217, 66 Fed. Reg. 33,155 (June 21, 2001).

⁹ *Id.*

¹⁰ ADA Amendments Act of 2008, 110 P.L. 325, 122 Stat. 3553 (Sep. 25, 2008).

2020.¹¹ It is unclear what changed between 2020 and 2026, but the Opinion constitutes repudiation not only of decades of consistent policy with respect to community integration but also of the position of the first Trump Administration.

These ongoing efforts—across both Democratic and Republican administrations—have yielded real results. When Medicaid was created in 1965,¹² it built on the existing system of institutional and nursing home care and required states to pay for medically necessary institutional care for disabled and older individuals. In 1981, the first “waiver” was created that allowed states to provide long-term care to individuals in their homes and communities.¹³ The *Olmstead* decision drove states to offer more HCBS options through Medicaid waivers. Federal efforts also provided new fiscal resources for rebalancing efforts, including the Money Follows the Person demonstration program authorized by the *Deficit Reduction Act of 2005*, which has been reauthorized on a bipartisan basis numerous times,¹⁴ and enactment of the temporary increase in the Federal Medical Assistance Percentage (FMAP) for HCBS in the *American Rescue Plan Act of 2021*.¹⁵ The concerted effort to move away from institutionalization has led to dramatic shifts in Medicaid spending away from facility-based care and increased access to HCBS. The majority of long-term care spending now pays for HCBS rather than institutional care, and 87% of Medicaid recipients who access long-term services and supports (LTSS) rely on HCBS.¹⁶

This Opinion is an insult to people with disabilities, their loved ones, and those who advocate for them, all of whom have worked hard over decades to correct or prevent unnecessary institutionalization of both adults and children with disabilities.¹⁷

¹¹ See Ctrs. for Medicare & Medicaid Servs., *Long-Term Services and Supports Rebalancing Toolkit 3* (Nov. 2020), <https://www.medicaid.gov/medicaid/long-term-services-supports/downloads/ltss-rebalancing-toolkit.pdf> (“The Centers for Medicare & Medicaid Services (CMS) recognizes that states are working hard to ensure that individuals eligible for long-term services and supports (LTSS) receive high quality and cost-effective person-centered care that is consistent with the individual’s needs and wishes and that promotes access to services in home and community-based settings.”).

¹² Social Security Amendments of 1965, Pub. L. No. 89-97, 79 Stat. 286 (1965).

¹³ Omnibus Budget Reconciliation Act of 1981, 95 Stat. 357 (1981).

¹⁴ Deficit Reduction Act of 2005, Pub. L. No. 109-171, 120 Stat. 4 (2006).

¹⁵ American Rescue Plan Act of 2021, Pub. L. No. 117-2, 135 Stat. 4 (2021).

¹⁶ Ctrs. for Medicare & Medicaid Servs., *Trends in Users and Expenditures for Home and Community-Based Services as a Share of Total Medicaid Long-Term Services and Supports Users and Expenditures, 2023: LTSS Rebalancing Brief*, Mathematica (Oct. 17, 2025), <https://www.medicaid.gov/medicaid/long-term-services-supports/downloads/ltss-rebalancing-brief-2023.pdf>.

¹⁷ Robert David Dinerstein, *The Olmstead Decision at 25: Federal Enforcement of the Integration Mandate for People with Disabilities*, ABA, Civil Rights & Social Justice Section, *Human Rights Magazine* (July 18, 2025),

After decades of enforcing the holding in *Olmstead* and supporting victims of discrimination, the Department appears poised to abandon its obligations to enforce the law. The Opinion baselessly asserts that the Court in *Olmstead* did not hold what it, in fact, held, which is that the ADA and the *Rehabilitation Act* impose an integration mandate that requires states to provide services in the most integrated setting appropriate. The Opinion exceeds any reasonable scope of enforcement discretion by taking the position that *Olmstead* does not require the state to provide services in the most integrated setting. If the Opinion were implemented, it would amount to the DOJ abandoning its commitment to protect disabled people who just want to live, work, learn, and participate in their communities.

Tellingly, the Department acknowledges that this Opinion conflicts with the common understanding of *Olmstead* and with federal jurisprudence. Moreover, the Opinion will sow confusion because, as the Opinion acknowledges, the Department is powerless to change the law. It acknowledges that “any final agency action adopting our view will be subject to challenge in litigation under the Administrative Procedure Act” and “any state that chooses to treat a person with mental disabilities in an institution based on our reasoning may still be subject to individual ‘Olmstead claims’ seeking a judicial order.”¹⁸

This Opinion must also be read in the context of the enactment of the *One Big Beautiful Bill Act* (OBBBA).¹⁹ Despite the frequent assertions that OBBBA would only affect “able-bodied” Medicaid recipients and prevent fraud, the law is forcing states to make drastic cuts to Medicaid—including optional home and community-based services that are historically the first place that states look to make cuts.²⁰ In fact, several states have already proposed cuts to HCBS in the wake of OBBBA, including Colorado, Idaho, Missouri, Nebraska, Utah, and North Carolina, with more expected to follow suit.²¹ Finally, the Administration has been vocal about

<https://www.americanbar.org/groups/crsj/resources/human-rights/2025-july/olmstead-decision-federal-integration-mandate-people-disabilities/>.

¹⁸ U.S. Dep’t of Justice, Office of Legal Counsel, *Application of the Rehabilitation Act and Americans with Disabilities Act to State Institutionalization of Patients with Severe Mental Illness or Disabilities*: Memorandum Opinion for the Counsel to the President (June 18, 2026), <https://www.justice.gov/olc/media/1446701/dl>.

¹⁹ Pub. L. No. 119-21, 139 Stat. 100 (2025).

²⁰ Jessica Schubel et al., *History Repeats? Faced with Medicaid Cuts, States Reduced Support for Older Adults and Disabled People*, Health Affs. Forefront (Apr. 16, 2025), <https://doi.org/10.1377/forefront.20250414.154091>.

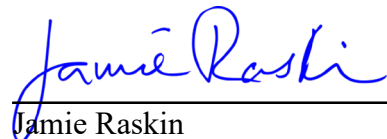
ensuring federal dollars are well spent,²² but if these efforts are genuine, its aims would be far better served by favoring HCBS—which is consistently less expensive than institutional care. Recent data show that Medicaid spent an average of \$36,275 per person for people who used HCBS and \$47,279 per person for people who used institutional LTSS.²³

For the reasons outlined in this letter, we call on DOJ to rescind the Opinion and reaffirm the Executive Branch's commitment to faithfully enforce the ADA, the *Rehabilitation Act*, and the Supreme Court's landmark holding in *Olmstead*.

Very truly yours,



Robert C. "Bobby" Scott
Member of Congress
Ranking Member, Committee
on Education and Workforce



Jamie Raskin
Ranking Member
House Committee on the
Judiciary



Frank Pallone, Jr.
Ranking Member
Committee on Energy and
Commerce

²¹ Justice in Aging, *Lawmakers Knew All Along They Were Voting to Cut Medicaid for Older Adults* (Mar. 4, 2026), <https://justiceinaging.org/lawmakers-knew-all-along-they-were-voting-to-cut-medicaid-for-older-adults/>.

²² Ctrs. for Medicare & Medicaid Servs., *CMS Moves to Rein In Misused Medicaid Dollars and Reward Quality Care*, Press Release (May 20, 2026), <https://www.cms.gov/newsroom/press-releases/cms-moves-rein-misused-medicaid-dollars-reward-quality-care>.

²³ Priya Chidambaram & Alice Burns, *How Many People Use Medicaid Long-Term Services and Supports and How Much Does Medicaid Spend on Those People?*, KFF (Aug. 14, 2023), <https://www.kff.org/medicaid/how-many-people-use-medicaid-long-term-services-and-supports-and-how-much-does-medicaid-spend-on-those-people/>.