



## **Missing the Mark – Government Housing Programs for People with Special Needs**

By [Mary O’Byrne, Esq.](#), and [Stephen W. Dale, Esq.](#)

*In the [first article](#) of this three-part series, we examined the scope and causes of the crisis in housing for individuals with disabilities. Here, we describe government efforts to address it.*

The performance of government at all levels has been inconsistent with regard to the housing needs of individuals with disabilities, who have been estimated to comprise nearly 40 percent of the homeless population. On one hand, the Supreme Court’s *Olmstead* decision, citing the ADA (Americans with Disabilities Act), found that people with special needs are entitled to live in the least restrictive settings possible. But ADA fails to specify how states are to accomplish that goal and provides no funding to support it. A 2013 report sponsored by Senator Tom Harkin (D-Iowa) lambasts the states for their track record on community-based living and suggests amending ADA “to clarify and strengthen the law’s integration mandate.”

At the same time, federal housing programs have fallen prey to budget cuts, with states following suit. Affordable housing programs have a sad history of being launched, then falling apart due to lack of funding.

Government programs run the gamut from rent subsidies to low-income tenant assistance to developer incentives intended to increase housing inventories. Here’s an overview:

### **Section 811 Supportive Housing for Persons with Disabilities**

This is the only program sponsored by the U.S. Department of Housing and Urban Development (HUD) that targets accessible residential options for low-income, non-elderly individuals with significant disabilities. As updated by the Frank Melville Supportive Housing Investment Act of 2010, the program includes incentives to integrate accessible housing with residential options for the general population. Residents typically pay rents based on 30 percent of their adjusted incomes and are connected to a wide variety of special needs supports in order to facilitate independent living. Unfortunately, funding for this program has steadily declined since FY2012.

### **Section 8 Housing Choice Vouchers**

This HUD program enables low-income individuals with disabilities, seniors and families to pay, in general, about 30 percent of their income for rent. Participants are responsible for

locating their own housing through the private market.

Nationwide, Section 8 Housing is plagued by long waiting lists. In Alameda County, California, for instance, there's a 10-year queue to even get on the waiting list. Other communities have stopped maintaining waiting lists altogether.

In addition, as a result of tight local budgets, some residents are being required to pay up to 40 percent of their income.

### **Public Housing**

Public housing, also characterized by long waiting lists, ranges from high-rise apartments to single-family dwellings. Low-income tenants pay approximately 30 percent of their income in rent.

In addition, the funding for upkeep has emerged as a major issue. The situation faced by the Baltimore Housing Authority is a case in point. In response to decades of spending cuts by the federal government, the city has repeatedly cut public housing maintenance budgets. As a result, according to The Baltimore Sun, the city now faces \$300 million in repairs. According to newspaper reports, "If the city were to continue trying to make the repairs needed to maintain its public housing units at its current pace, it would take over 200 yrs. to complete the work."

In order to address the problem, the housing authority is considering sale of more than a third of its units 11,000 units to private developers, who would be obligated to make the necessary improvements, then rent the properties to low-income families for a minimum of 40 years. Some housing advocates are skeptical.

Baltimore also illustrates how limited funding for public housing is subject to competition due to demands of other housing authority priorities. Last year the Baltimore City Housing Authority obtained permission from HUD to use part of its federal funding intended to expand the Section 8 voucher program to pay court judgments awarded to victims of lead paint poisoning suffered while in public housing.

HUD's rules for establishing eligibility, however, can be incomprehensible. For instance, HUD counts what are called "regular reoccurring distributions not specifically excluded by statute" in determining the countable income for determining a HUD recipient's rent. HUD also excludes annual income if the payment/income is "temporary, nonrecurring or sporadic." Unfortunately there is little guidance concerning what is a regular distribution and what is temporary, nonrecurring or sporadic. This has resulted in inconsistency from housing authority to housing authority, and from HUD recipient to HUD recipient. These inconsistencies make it difficult for families—and their special needs attorneys—to plan.

### **National Housing Trust Fund (NHTF)**

Despite being consistently included in Presidential budgets, this program has yet to receive any congressional funding. Its intent is to provide grants to the states for the construction, maintenance and rehabilitation of residences for low-income individuals.

### **Medicaid Money Follows the Person (MFP)**

This Medicaid program, which pays for a wide variety of services to facilitate community-based living for people with disabilities, covers the costs of group home and residential settings for individuals who had previously lived in long-term care institutions. However, due to the severe shortage of group homes, applicants may wait years for an opening.

### **Medicaid waiver residential programs**

In some states, Medicaid waiver programs cover the expense of living in community-based group residences, supported with 24/7 services. As previously mentioned, a limited supply of group homes means that long waiting lists are the rule.

### **Low-Cost Mortgages**

Throughout the nation, low-cost mortgages are available to limited- and moderate-income individuals with disabilities and their families. One example is California's HomeChoice. Given that such families often face budget constraints, property maintenance can prove a challenge. Even an apparently generous SNT can become stretched by the demands of home ownership. See "Special Needs Trusts and Home Ownership: A Trustee's Concerns," in *The Voice*.

Many individuals with disabilities who currently live with aging parents will require different housing in the coming years. When considering options for the future, families should involve their loved one in the decision-making, to the extent possible. We know of parents who, convinced that they had assured their son's life-long security, purchased a home for him through an SNT. After they had passed away, however, he contacted his attorney to explain that he'd prefer living in a nearby group home with his friends!

Given the shortage of subsidized housing, many people with disabilities drift in and out of temporary living arrangements with families and friends. These can be emotionally charged situations and, especially when mental illness is involved, such individuals may be one crisis removed from homelessness. Since many individuals with special needs do not handle change well, such a precarious lifestyle hits them hard on multiple levels. What can be done?

*Next: Experimental Models – What Nonprofits, Private Developers and Individual Families Are Doing*

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