

Executive and Legislative State Initiatives in Disability Policy: Highlights and Summaries from 2004

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Around the country, at both the federal and state level, Americans with disabilities are increasingly becoming viewed as a unique subpopulation. Public perception of persons with disabilities is shifting away from that of a disadvantaged, less capable group towards one of a population with unlimited potential for productivity and community integration with specialized needs and demands. While federal legislation and movements are beginning to address these issues, many state governments have included in their priorities efforts to meet the demands and improve the quality of life for the disabled.

This report includes summaries of disability initiatives outlined in the Governors' addresses, pending and enacted state legislations for 2004, and activity in the state agencies.

Executive Level Policy

In their 2004 State-of-the-State speeches, several governors highlighted recent steps to address issues surrounding individuals with disabilities. The following are disability policy initiatives from Governors' offices.

ARIZONA

Arizona has taken significant steps to lower the cost of prescription drugs for the elderly and disabled populations. In addition to a statewide discount drug card plan for Medicare beneficiaries, the state has negotiated over \$1 million in savings for Arizonans with disabilities over the last year and a half.

CALIFORNIA

Governor Arnold Schwarzenegger proposed vast efforts in workers' compensation reform, including nationally recognized guidelines regarding permanent disability.

COLORADO

In the past year, Colorado took measures to allow disabled Medicaid recipients more flexibility and control over their home care services, allowing them to hire and supervise their own personal assistants as well as determine their assistant's schedules and provided services. One million dollars was put into a state program to enhance these efforts.

FLORIDA

Florida has noted significant achievements in addressing the needs of the disabled community in a variety of areas. In the last year, Governor Bush noted that a record high of 87 percent of high school seniors with some type of disability graduated with some type of diploma. He also highlighted efforts and progress in supporting employment and community integration initiatives throughout the state to promote independence and self-determination for the disabled community. The Governor also noted his proposed \$1 billion increase in the state Medicaid budget, in part to continue to fund these efforts.

HAWAII

Governor Linda Lingle announced her proposal for a two-fold approach to addressing the growing costs of long-term care needs for the elderly and disabled communities. First she proposed a tax credit for individuals and families who purchase insurance in anticipation of future long-term care needs. Second, she proposed an increase of more than \$3 million to expand long-term care options, particularly in the development of more home and community based nursing services. This includes over \$800,000 for in-home chore services, allowing elderly and disabled individuals to remain at home in their communities for longer. In addition, the federal government recently granted \$3.6 million to improve treatment options and quality of care for Hawaiian with mental illness and drug addiction.

IDAHO

The governor ordered the merger of Disability Determination Services with the Idaho Department of Labor to increase efficiency and reallocate the \$400,000 saved in administrative costs to help disabled workers find jobs.

IOWA

Although Iowa is one of the highest ranked states for providing quality health care to the vast majority of its citizens, Governor Vilsack continues to push for further investment in Medicaid programs to ensure adequate services to the populations with the most critical needs, including the disabled and elderly. The Mental Health Developmental Disabilities Commission released a series of recommendations for improving and enhancing services to adults with mental and physical disabilities. Their recommendations also include provisions for quality assurance of such services.

KANSAS

Following a period of financial crisis, over the past two years Kansas restored many state human service programs, including safety net programs serving the elderly and disabled populations. The state also invested in employment programs, including efforts to create new job and business opportunities, and provide more opportunities for persons with disabilities in the workforce.

NEBRASKA

Nebraska has done an in-depth analysis of the needs of and current treatment options for individuals with mental illnesses. Governor Mike Johanns noted the unjustified and inefficient use of institutional care facilities for individuals with mental illness who have been classified as not dangerous to themselves or others. He has proposed legislation that would increase community based resources for this population and improve statewide mental health services. In addition, these measures would lower the cost of care by eliminating unnecessary institutionalization.

VERMONT

As part of statewide ambitions of reforming the health care system, Vermont is looking to improve its long-term care programs. Consistent with national trends, Governor James H. Douglas advocates a shift toward home-based care services as both a way to save money and allow more comfortable, higher quality, and integrated care options for Vermont's disabled and elderly population.

WEST VIRGINIA

Efforts to ensure equal access to jobs, education, and community life for disabled West Virginians have been underway for several years. Governor Bob Wise recently proposed legislation to create a state government position for an ADA coordinator, to ensure state efforts continue to strive for utmost compliance with the Americans with Disabilities Act.

Legislative Policy

Activity in the state legislatures also addressed issues surrounding the individuals with disabilities. Two states, Florida and Maryland, developed state government agencies solely devoted to meeting the needs of the disabled community. Virginia enacted legislation to allow the board of directors of the Assistive Technology Fund to borrow money to carry out its statutory purposes. The Illinois legislature directed the Department of Public Aid to conduct a thorough review and analysis of current income rules for persons with disabilities who are residing in nursing facilities. To address the need for home and community based services, an Indiana law created community and home options to institution-

al care for the elderly and disabled. The Indiana Office of the Secretary of Family and Social Services must report on a variety of program areas, including progress in moving individuals from institutional facilities to home and community-based settings, progress in enrolling individuals for these services through a Medicaid waiver, and progress in documentation of savings by these services.

A Maryland mandate stated that a cooperative agreement be established with each county board defining the rules, responsibilities, and procedures in providing transition services for high school students.

In addition to these enacted initiatives, there were also numerous proposed and pending measures in the state legislatures addressing disability issues.

2004 EXECUTIVE AND LEGISLATIVE STATE INITIATIVES IN DISABILITY POLICY

	<i>Assistive Technology</i>	<i>Education</i>	<i>Financial Support</i>	<i>Medicaid Buy-In</i>	<i>Olmstead/Community Integration</i>	<i>New Departments</i>	<i>Miscellaneous</i>
Florida					EO 62	HB 1823 (Chapter 20)	
California			AB 649				
Hawaii		SB 428					
Illinois	HB 1107 HB 1322 HB 2635 HB 3287 HB 3288			HB 698	HR 851 SB 2958		HB 1100
Indiana					SB 449 (Public Law 22)		
Kentucky	SB 56			HB 60			
Louisiana					HB 1368		
Maryland		HB 988 (Chapter No. 65)				SB 188 (Chapter No. 425)	
Massachusetts							
New Jersey							AB 666
New Mexico			SB 199				
New York	AB 6751	AB 7519					AB 5474
Pennsylvania							HB 1859
Tennessee	HB 2794/ SB 2855						
Virginia	HB 354 (Chapter 728)						
Washington	HB 1872						

FLORIDA

EO 62

Status: Executive Order 04-62

Last Action: April 1, 2004

Summary: This law creates a 15-member Blue Ribbon Task Force on Inclusive Community Living, Transition and Employment of Persons with Developmental Disabilities.

HB 1823

Status: Enacted Law, Chapter 20

Last Action: May 28, 2004

Summary: This law creates the Agency for Persons with Disabilities, housed in the Department of Children and Family Services.

CALIFORNIA

AB 649

Status: pending in Senate

Last Action: August 24, 2004

Summary: This bill addresses funding for services and supports for people with developmental disabilities. The Legislature wishes to fund private and community-based programs and services at a minimum level, and to use increases in federal funding to supplement and not supplant state funding for these services.

HAWAII

SB 428

Status: pending in Senate; carried over to 2004 Regular Session

Last Action: August 21, 2003

Summary: This bill proposes a constitutional amendment to authorize the State to provide scholarships for public elementary and secondary school students with disabilities to enroll in and attend non-profit private schools of choice.

ILLINOIS

HB 698

Status: pending in the House

Last Action: April 4, 2003; carried over to 2004

Summary: This bill amends the Illinois Public Aid Code and makes a technical change in a section concerning Medicaid eligibility for persons with disabilities who are employed (the “Medicaid buy-in provision”).

HB 1100

Status: pending in the House

Last Action: May 14, 2003; carried over to 2004

Summary: This bill amends the Illinois Workforce Investment Board Act by adding at least one member representative of individuals or organizations that represent or advocate on behalf of persons with disabilities in the workforce.

HB 1107

Status: pending in Senate

Last Action: April 2, 2003; carried over to 2004

Summary: This bill proposes an amendment to the Illinois Income Tax Act. Beginning with taxable years ending on or after December 31, 2003, small business owners will be eligible for an income tax credit in the amount of 50% of the amount spent for modifications or the purchase of assistive devices for people with disabilities. The maximum credit is \$2,500 in the taxable year and may not reduce the taxpayer's liability to less than zero, but may be carried forward for 5 taxable years.

HB 1322

Status: pending in the House; carried over to 2004

Last Action: December 22, 2003

Summary: This bill appropriates \$750,000 from the General Revenue Fund to the Illinois Department of Human Services for a grant to the Illinois Assistive Technology Project. These funds will match available federal funds under Title III of the Assistive Technology Act for the establishment and operation of an alternative financing program to allow people with disabilities to purchase assistive technology devices and services.

HB 2635

Status: pending in the House

Last Action: December 22, 2003; carried over to 2004

Summary: This bill appropriates \$1,000,000 from the General Revenue Fund to the Department of Human Services for a grant to the Illinois Assistive Technology Project for the establishment and operation of a comprehensive statewide program that loans assistive technology devices to people with disabilities.

HB 3287

Status: pending in the House

Last Action: December 22, 2003; carried over to 2004

Summary: This bill appropriates \$500,000 from the General Revenue Fund to the Department of Human Services for a grant to the **Illinois Assistive Technology Project**.

HB 3288

Status: pending in the House

Last Action: December 22, 2003; carried over to 2004

Summary: This bill appropriates \$1,500,000 from the General Revenue Fund to the Department of Human Services for a grant to the **Illinois Assistive Technology Project** for the establishment and operation of an Assistive Technology Evaluation and Training Center.

HR 851

Status: Resolution Adopted

Last Action: June 1, 2004

Summary: This law directs the Department of Public Aid to conduct a thorough review and analysis of the current income retention rules for persons with disabilities who are residing in nursing facilities. The analysis is to focus on the implementation of the Olmstead decision and whether the rules create a disincentive to engage in gainful employment for persons who are able, available and willing to seek employment with or without supports.

SB 2958

Status: pending in Senate

Last Action: February 20, 2004

Summary: This bill creates the MI Olmstead Initiative of 2004 to establish a 5-year program to provide individuals with mental illness or a co-occurring disorder of mental illness and substance abuse with appropriate Illinois residential and community-based support service.

INDIANA

SB 449

Status: Enacted Law, Public Law 22

Last Action: March 19, 2004

Summary: This law amends previous statute related to human services. Specifically, the law creates the community and home options to institutional care for the elderly and disabled program (CHOICE program), effective April 1, 2004. By May 1, 2004, the Office of the Secretary of Family and Social Services must report, in writing, to the Health Finance Commission on the office's progress in implementing the CHOICE programs and must also

include: (1) plans to use all appropriated funds; (2) plans for establishing the comprehensive array of home and community based services, (3) progress in enrolling individuals in home and community based services through Medicaid waivers; (4) progress in moving individuals from institutions to home and community based services through Medicaid waivers; (5) progress in tracking and recording savings; (6) Plans and actions taken to secure federal funding; and (7) reasons for any failure to meet statutory deadlines.

KENTUCKY

HB 60

Status: Introduced in House

Last Action: January 6, 2004

Summary: This bill requires the Cabinet for Health Services to convene a policy group of relevant stakeholders to develop a Medicaid Buy-In program for people with disabilities and apply for federal grants to support program development.

This policy group must conduct its first meeting by August 15, 2004, as well as:

- create ad hoc groups, as needed,
- have access to necessary data from any state or local government entity,
- identify financing for the Medicaid Buy-In program and address the availability of funding, and
- assess the cost-effectiveness and economic benefits of a Medicaid Buy-In program and make recommendations on eligibility, personal care assistance services, coordination with other programs and policy considerations, and
- present the Medicaid Buy-In program to the Governor, the Legislative Research Commission and the co-chairs of the Interim Joint Committee on Health & Welfare by November 1, 2004.

The Cabinet for Health Services shall implement a Medicaid Buy-In program based on the recommendations of the policy group by July 1, 2005.

SB 56

Status: pending in Senate

Last Action: January 12, 2004

Summary: This bill creates the Accessible Electronic Information Service Program to provide accessible electronic information services for all eligible blind and disabled person as defined in the bill. The program is to be administered by a nonprofit entity selected through a competitive bidding process and will be funded by a monthly tax of up to \$0.02 on phone bills.

LOUISIANA

HB 1368

Status: pending in House

Last Action: March 19, 2004

Summary: This bill creates the Louisiana Independent Living Act to develop and implement programs and services throughout the state to enable people with disabilities to live more independently in their own homes and communities.

MARYLAND

HB 988

Status: Enacted Law, **Chapter No. 65**

Last Action: April 13, 2004

Summary: This law repeals previous law related to the Interagency State Plan for Transitioning Students with Disabilities. The law requires the Department of Education, Division of Rehabilitation Services to assign rehabilitation counselors to all high schools, establish a cooperative agreement with each county board defining roles, responsibilities and procedures in order to provide appropriate transition services for transitioning students, as well as, develop an individualized plan for employment prior to graduation for transitioning students with county boards.

SB 188

Status: Enacted Law, Chapter No. 425

Last Action: May 11, 2004

Summary: This law creates the state Department of Disabilities, which will be responsible for developing, maintaining, revising and enforcing statewide disabilities policies and standards throughout the units of state government. The department will also oversee and administer the constituent services and ombudsmen and the assistive technology guaranteed loan programs. This bill also creates a 20-member Commission on Disabilities and a 14-member Interagency Disabilities Board. The commission is to meet at least twice a year to advise the department of its duties and serve on subcommittees established by the Secretary to carry out the mission of the department. The Interagency Disabilities Board is responsible for developing the state disabilities plan.

MASSACHUSETTS

HB 3531

Status: pending in House

Last Action: October 21, 2003; carried over to 2004

Summary: This bill creates a nine-member special commission to study relative to workforce issues in those agencies serving people with mental retardation. The study should include, but not be limited to, concerns which might impact the quality of the workforce, recruitment and retention strategies.

NEW JERSEY

AB 666/SB 855

Status: Introduced in Assembly

Last Action: January 13, 2004

Summary: This bill proposes the creation of county offices for the disabled. These offices will serve as a central source of information on programs and services for people with disabilities. Specifically, the offices shall:

- circulate current knowledge relating to disabilities as well as the rights and needs of people with disabilities to the public;
- stimulate the expansion and coordination of existing services to more adequately meet the needs of people with disabilities, and where desirable, encourage new programs to meet these needs.
- The bill also makes annual appropriation of no more than \$20,000 in state aid to the Department of Human Services for the county offices for the disabled.

NEW MEXICO

SB 199

Status: pending in Senate

Last Action: April 1, 2004

Summary: This bill appropriates \$519,000 to provide state matching funds for alternative financing programs to help people with disabilities purchase assistive technology devices and services.

NEW YORK

AB 5474

Status: pending in Senate

Last Action: June 16, 2004

Summary: This bill authorizes the Vocational Rehabilitation Services for Disabled to provide funds to a limited number of eligible persons with disabilities for lease, lease-purchase or rental and maintenance of motor vehicle as part of the person's individualized plan for employment.

AB 6751

Status: pending in Assembly

Last Action: January 7, 2004

Summary: This bill establishes an Accessible Electronic Information Service for blind and disabled people in order for them to access newspapers, magazines, newsletters and other "time-sensitive" materials. The service will be administered by the National Federation of the Blind of New York and funded by a monthly tax of \$0.01 on phone bills.

AB 7519

Status: pending in Assembly

Last Action: June 2, 2004

Summary: This bill amends a previous statute in order to establish a funding program for the improvement of disability services at institutions of higher education. The State University of New York, City University of New York, accredited independent colleges and universities and degree-granting proprietary institutions would be eligible to receive funds if they design systems to:

- enhance base year funding for capacity building through the development of institutional plans for improving access for students with disabilities; and/or
- support recruitment programs that establish targets for recruitment of students with disabilities; and/or
- support increases to programmatic activities currently provided by institutions of higher education to individuals with disabilities.

The Commissioner of the State Education Department is to submit an annual report to the Board of Regents and the legislature.

PENNSYLVANIA

HB 1859

Status: pending in House

Last Action: June 23, 2004

Summary: This bill creates the Office of Disabilities within the Governor's office. The office is to, among other things, ensure people with disabilities have access to adequate services, establish interagency agreements with other governmental bodies and public and private agencies, develop two-year plan for services and identify gaps in disability services and funding services.

RHODE ISLAND

Medicaid Buy-In legislation passed in both state houses and signed into law by Governor.

TENNESSEE

HB 2794/SB 2855

Status: pending in House/pending in Senate

Last Action: April 6, 2004/March 31, 2004

Summary: This bill, known as the Assistive Technology Assistance Act, creates a loan fund to provide loans to people with disabilities for equipment that improve their independence and quality of life. A twelve-member committee will oversee the fund.

VIRGINIA

HB 354

Status: Enacted Law; **Chapter 728**

Last Action: April 21, 2004

Summary: This law amends previous statute related to the Assistive Technology Loan Fund Authority. Specifically, the law authorizes the board of directors of the Assistive Technology Loan Fund Authority to borrow money to carry out its statutory purpose, execute evidences of such gratitude and secure the same, issues negotiable revenue bonds payable solely from funds pledged for that purpose, provide for the payment of the same and for the rights of the holders thereof.

WASHINGTON

HB 1872

Status: pending in Senate

Last Action: March 11, 2004

Summary: This bill provides for low-interest deposit loans to small businesses, nonprofits and other qualifying organizations to purchase assistive technology devices and services.

State Agency Level Policy

CALIFORNIA

The state received approval from CMS for a Section 1115 Independence Plus waiver allowing federal funding of personal assistance services in cases where the provider is a parent or spouse to the consumer, and to provide coverage for expanded services such as protective supervision, meal allowances, and advanced monthly payments for providers. The Governor issued an executive order on September 27, 2004 directing the state's Health and Human Services Agency to review and revise California's Olmstead Plan and form an Olmstead Advisory Committee to advise work on the Plan and recommend improvements to the state's long-term care system.

LOUISIANA

In March of 2004, Louisiana implemented a Medicaid Buy-In program. They also received approval from CMS for two state plan services regarding personal care services: one plan will provide services for individuals with disabilities at serious risk for being placed in a nursing facility, and the second is to provide personal care services for individuals seeking employment. This second effort is currently on hold until the first is fully implemented.

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About the Center for Workers with Disabilities

The Center for Workers with Disabilities provides a locus for information exchange, policy and program development, and direct technical assistance to and between the states as they exercise options to develop or enhance work incentives and seek to strengthen programs serving persons with disabilities.

The Center offers states support and guidance on developing Medicaid Buy-In programs for working persons with disabilities, refining the operation of work incentives that are in current law, such as Section 1619 (b) and utilization of the State Supplementation link to Medicaid. Many states, including those operating MBI programs, have found there is substantial work to be done on utilization of these areas. The Center assists states in all of these areas and delivers services based on state preferences. The goal of the Center is to provide a wide array of technical assistance services to states to increase the number of disabled workers in the workforce.

A special project of the National Association of State Medicaid Directors (NASMD), an affiliate of the American Public Human Services Association (APHSA), the Center benefits from the resources of the Medicaid directors' association as well as linkage with the APHSA, the professional organization of the chief state health and human services administrators. In addition, the Center works closely with the National Association of TANF directors, an affiliate group that is also housed within APHSA.

The Center was started in 1998 to support states in their efforts to administer the Medicaid Infrastructure Grants. The Center worked with "early implementer" states as they designed, enacted, and implemented their Medicaid Buy-In legislation. The "early implementer" states provided an incubator to develop a series of "best practices" which the Center shares with states just beginning the process. Thirty-two states have authorization for a Medicaid Buy-In program and 29 of those states have implemented their programs. As the state's experience and needs evolve, the expertise of the Center is also developing and changing to meet the growing needs of the states.

The Center for Workers with Disabilities technical assistance practice, developed over the last several years, integrates the following processes:

- Information gathering;
- Policy analysis;
- Review and refinement of analysis through input of stakeholders;
- Adoption of best practices of policy frameworks and program structures which emphasize interagency coordination;
- On-site technical assistance and facilitation of state-to-state technical assistance;
- Dissemination of information.

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