

**Testimony of**  
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**House Committee on Finance and Appropriations**  
**Health and Human Services Subcommittee**  
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Chairman Sprague, Ranking Member Sykes, and members of the Health and Human Services Subcommittee, thank you for this opportunity to speak before you today. My name is Joe Moore and I'm from Tiffin, Ohio. I have an adult son who receives services through the Seneca County Board of Developmental Disabilities.

In last Tuesday's testimony, it was clear that the individuals and family members who testified didn't come with a hidden agenda. Their lives or the lives of loved ones are on the line and they are going all in. I also appreciated the sensitivity this committee showed in your comments and questions. If the transparency and sensitivity evident in this room last week were more common in government, more would be accomplished and better decisions would be made.

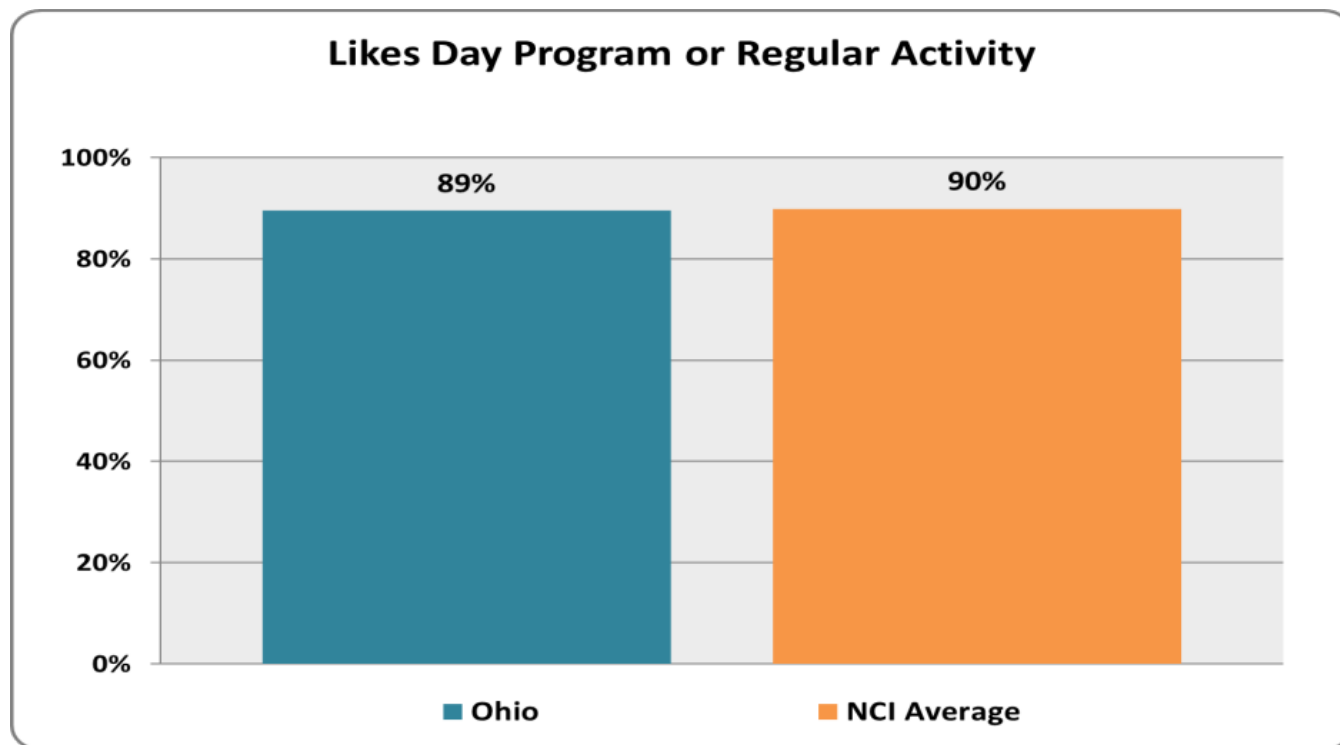
Two messages were very clear last week. The first was that "community" doesn't mean the same thing for everyone. Whether we are disabled or not, neither the Department of Justice nor CMS has the right to impose their definition of community on the rest of us.

The other message was that people are happy. They are happy with their ICF. They are happy with their private service provider. They are happy in their sheltered workshop. Happy is a pretty good place to be.

In his written testimony before this committee, the Director John Martin stated that "people are happiest when they earn real money from real work." I couldn't agree more and that's exactly what happens each and every day in sheltered workshops all across Ohio.

Director Martin further stated that the 2012-2013 National Core Indicators showed that 36% of Ohio's adults with developmental disabilities want jobs in the community.

Interestingly enough, what the director didn't tell you is that the same study reveals that 89% of individuals across the state are happy with their sheltered workshop and day services. When that many people are happy in their job, why are we forcing them to change?



Source: NCI Adult Consumer Survey Results, Ohio Report, 2012-2013 Data, Page 47

For ten years my son had a full time community job. His employer and his coworkers went above and beyond to accommodate him and help him whenever they could. However, over time the challenge simply became too much. It wasn't due to lack of supports, to an inappropriate job placement or to ineffective training or coaching. Life happens, things change. It's just a fact. In consultation with his care team, we decided to apply to the workshop operated by our county board. He has been there for seven years now. He is one of the 89% who loves his job at the workshop. He regularly tells us that he has no interest in seeking employment in the community. For him, successful employment isn't about money or being in an integrated setting. He does meaningful work, earns real wages and works with friends in a safe and pleasant atmosphere. He's happy there. The workshop is his community of choice. It fulfills all his criteria for success and happiness.

Actually I think “happiness” is an important factor that often gets overlooked in discussions like this, even by the wisest of decision makers. I would encourage you to consider “happiness” as a guiding principle in your work.

I was saddened last week to learn that, despite the hundreds of letters, emails and phone calls to CMS, DODD and Ohio’s legislators, the Employment First initiative is still being advanced with little, if any, regard for an individual’s choice. In her presentation at Thursday’s Winter Conference for Ohio Superintendents of County Boards, guest speaker Employment First proponent Katie Wolfe Whaley, stated that, based on the Employment First founding statute, “agencies start with the presumption that all people can work if provided with appropriate supports. Resources, like time and money, should be invested to determine **how**, not **if**, a person can be successful in community employment.”

Such a mindset gives the state license to move individuals through an endless series of community jobs. The state accepts blame for failed placements and that admission serves as the rationale to have the individual to try one job after another. Sadly, the very agencies that purport to protect the best interests of people with I/DD are denying individuals’ rights and subjecting them to unnecessary stress and embarrassment. For individuals who already struggle with self-image, Ohio seems willing to go out of its way to remind them, “you’re not good enough.” Meanwhile, it’s the individual whose life is being turned upside down. And for what? The possibility of a community job that, the Director himself admits, may only be for a few hours a week?

Ladies and gentlemen, where, may I ask, does this presumption of employability mentality take into account an individual’s right to choose? This is precisely the type scenario that prompted Justice Kennedy to warn against misinterpretation and misapplication of the tenets of the Olmstead decision. States do not have to right to selectively enforce only the parts of the decision that suit their agenda.

In a meeting with Representative Sprague earlier this month, he invited people to suggest language to amend HB64 in such a way that would satisfy families and yet still meet with the requirements of Americans with Disabilities Act and comply with the Olmstead Decision.

I would suggest that the answer is to insert language that guarantees the individual's right to choose. Please know that, if you give them a choice, they may not always chose what you want them to. But I have every confidence that, in consultation with their care team, individuals will chose what's best for them. Individuals have the right to choose. No hurdles, no roadblocks, no qualifiers, no subtext. A simple, unhindered choice.

I think Employment First raises other serious questions that have yet to be addressed. In the push for full community employment, there is a lack of clarity about what day services will look like for those individuals who, due to the severity of their disabilities, are unable to work in the community or in a workshop. The mere fact that there is no viable plan to address the needs of this group of individuals is a problem in and of itself. One of the ideas that has been suggested involves forming small cohorts (1 staff : 4 individuals) who would participate in community inclusion activities during the day. Though detailed explanations have yet to be released, this idea raises numerous concerns.

1. In many cases, individuals who cannot work in the community can have special needs/behaviors that cannot be safely managed in a 1:4 staff ratio. In some instances, staffing ratios are essentially 1:1 or in some cases 2:1 for toileting, etc.
2. Adaptive equipment needed for restroom use can be awkward to move in/out of public restrooms when out in the community.
3. At best it is awkward, and in some cases even dangerous, to attempt to deal with issues such as seizures, feeding tubes, diaper changing, etc. in community settings.
4. The sheer number of venues needed to offer an interesting mix of community integration activities for 30+ hours per week is daunting in itself and may well prove impossible to find in smaller communities. Where will individuals go when community activities have been exhausted for the week?

Another topic that has not been addressed is transportation. Let me share what the scope of this problem would look like just in Seneca County. With a population of just under 18,000, Tiffin is the county seat and the largest city in the county. As is the case with most communities our size, there is no public transportation. Everyone of the 175 individuals in our two workshops enjoys the convenience of door-to-door bus service provided by the county board. A fleet 16 buses travels over 6,000 miles each week as they crisscross the

county's 550 square miles transporting individuals to/from work. All those bus routes converge on one of two drop-off points: our two sheltered workshops.

With full community employment (and day services), a transportation system will be needed to take individuals to dozens of different sites and will need to do so around a variety of different drop-off and pick-up times each day. Our 16 buses will have to be replaced by an army of probably 40 smaller vehicles, many equipped to handle wheelchairs. And then there's the cost of fuel. And that's just for a rural county like ours. Now imagine what that looks like for the 87 other counties including large metro counties like Cuyahoga, Franklin, Hamilton, Lucas, Montgomery, Summit, etc. The budget implications will be staggering, yet transportation is a topic that hasn't been addressed.

Despite its aggressive investigations in Rhode Island and Oregon, the DOJ still acknowledged that the final decision as to where services are received is up to the individual in accordance with ADA and the Olmstead decision. Here is a quote from a letter from the DOJ to the the Attorney General of Oregon regarding the findings of their investigation (June 29, 2012, page 19).

“No one who is qualified for supported employment should be placed into a sheltered workshop, unless after being fully informed, he or she declines the opportunity to receive services in integrated supported employment.”

Ladies and gentlemen, Ohio's workshops are not those of Rhode Island or Oregon. I'm sure that there people in our workshops who would like to have a job in the community, but there are also non-disabled people who would like to have jobs in our community. It's a matter of economics. Jobs can't be created out of thin air. Until such time that positions become available in the community, our sheltered workshops serve as an important safety net for individuals with I/DD. Is there room for improvement? Certainly. But we are doing a lot of things right and we are doing them well.

I know the Chair has already visited our workshop in Seneca County, but for the rest of this committee, I would like to extend to you an open invitation to visit one of the top-tier workshops in Ohio and the nation. We are extremely proud of our facilities, our staff and

our workers. The individuals in our workshops choose to be there and they make that decision everyday.

Are we really going to dismantle model workshops that are shown to be successful? Are we willing to tell 89% of workshop employees who are happy with their services that they can't work there despite the fact that it's their choice? Wouldn't it be a more prudent choice to first create a working model of what day services would look like for those individuals who can't work? Would it not be wiser to draw up and cost out a transportation master plan for each county first?

Thank you.