



DISABILITY RIGHTS WASHINGTON

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July 18, 2011

VIA EMAIL AND FIRST CLASS MAIL

Governor Chris Gregoire
Office of the Governor
PO Box 40002
Olympia, WA 98504-0002

Dear Governor Gregoire:

I am writing to you to express my deep disappointment with your decision to veto Sections 7 and 11 of SB 5459. These sections provided fundamental protections and assurances for people with developmental disabilities transitioning from Residential Habilitation Centers to the community.

As you probably know, Disability Rights Washington supports the consolidation and closure of the Residential Habilitation Centers, and we have joined with other advocates in applauding your decision to move ahead with deinstitutionalization. We believe that the residents currently living in these facilities can be better served in community settings, and experience around the country shows that with appropriate support people living in institutions can thrive in the community. However, given that many thousands of people with developmental disabilities currently living in the community do not have the support they need, we have consistently and repeatedly stated that it is imperative that RHC residents who choose to move to the community have clear assurances in the law that they will continue to receive adequate services in the future, with ongoing quality assurance and independent oversight. By enacting the specific guarantees of community services for transitioning RHC residents found in Section 7 of SB 5459, the Legislature indicated they agree. With your veto, you have signaled that you believe these assurances are not necessary.

You, and those in leadership positions at DSHS, have stated that appropriate services, sufficient to meet individual needs, will be provided to residents who choose to move to the community. DSHS says that they will monitor the quality of the transition to ensure the health, safety, and well-being of those who move. With SB 5459, you had the opportunity to elevate these pledges to provide adequate support in the community from promises to an *expectation backed by the force of law*. By your veto of these sections, you have missed the opportunity to provide tangible assurance of the state's ongoing commitment to make good on these promises.

You indicate that you have vetoed Section 7 primarily because you are concerned about the cost impact of one relatively minor provision: the reimbursement of travel costs for

family and friends of transitioning residents. We are not aware of this concern being raised in legislative hearings or elsewhere during the session. If it had been, stakeholders and policymakers might have modified the wording or the funding to meet your concerns. Instead, you have raised this single provision in the section – which almost certainly has minor fiscal impact - as your primary rationale for vetoing a Section that puts into law critically important guarantees of ongoing services and quality assurance.

In your veto message, you say that most of the provisions in Section 7 are “already current practices within the Department”. We are not convinced of this, but in any case it misses the point. Even if DSHS is correct in telling you that most of what Section 7 requires is already their current practice – what about the future? We understand that DSHS is currently providing RHC resident who move to the community with a slot on the home and community-based waiver – but will the services continue if economy does not recover or worsens? Will the current commitment to quality assurance for transitioning residents wane with the passage of time and further budget cuts? Will future administrations see the lack of statutory guidance as an opportunity to reduce care and oversight?

By vetoing Section 7, you remove assurances that might help assure guardians that moving to the community is a safe and viable option. As you implement your policy of consolidation and gradual closure of institutions, you are asking people to choose to move to the community. Given the fact that so many people in the community are unserved or underserved, guardians may be reluctant to give up a secure, guaranteed institutional placement without some assurance that services will continue to be available in the community, and that there will be some independent oversight as to their quality? An important objective of Section 7 was to assure that residents who choose to move from RHCs to the community have the services they need to succeed not just at the time they move, but also into the future.

By vetoing Section 7, you have rejected putting into law a long list of protections and activities that were included to make sure that those RHC residents who choose to move don't end up losing their community support, or find themselves at risk because of poor service quality. With your veto, you have rejected the following:

1. Assurance of person-centered discharge planning.
2. Family-to-family mentoring to help families adjust to the transition.
3. RHC staff involvement in the transition. This will help ensure service continuity, and RHC staff also seek job opportunities in the community.
4. An assurance that all RHC residents who move to the community will be offered a placement on a home and community-based waiver, and ongoing eligibility, and that DSHS “provide continued access to the services that meet his or her assessed needs”. This is a fundamental protection against future service cutbacks.
5. Placing into state law an explicit “right to return” to the RHC for the first year.

6. Delineation of specific services that will be made available to the moving resident: medical, nursing, dental, behavioral and mental health support, habilitation, employment – and transportation of family to support ongoing contact.
7. A requirement that some state-operated living arrangements (SOLAs) will have limited ability to reject clients – a safeguard that will promote stability in placements where crises and other difficulties arise.
8. Independent oversight and review of the quality assurance process to ensure that RHC residents who transition to the community are appropriately supported.

You also vetoed Section 11, which requires that DSHS report to the Legislature on the progress of the transition of RHC clients for the first two years after they leave the institution. You explain this veto by indicating that DSHS already gathers “much of the information required for this report” – but that the cost of “*aggregating and assembling client-specific information into a new report*” is an “unfunded mandate”.

The areas identified in Section 11 include fundamental indicators of success or failure in transition: client and guardian satisfaction with services, stability of the placements, provider turnover, the number of clients who return to the institution, safety and health outcomes, types of services received by transitioning clients, and accessibility of former residents to family. DSHS has told you that they are *already gathering* much of this information. Won't the Department be using that information – in aggregated form - to evaluate what is working well – and what is not working well - in the RHC transitions? How else will they be able to make conclusions about whether or not the policy is preserving the health and welfare of RHC residents who move? How will they know if most of the placements are succeeding or failing, and why, if they don't aggregate the data they gather? If the Department is not aggregating this data, they can't make conclusions about the success or failure of your policy of transition from RHC to community, and you – and the Legislature – won't have a basis on which to make decisions about funding levels, service needs, and adjustments to the transition policy.

We have supported the policy of consolidation and closure of institutions for persons with developmental disabilities with the understanding that the policy included a commitment to ongoing services for the moving residents, quality assurance, and active and independent oversight by stakeholders and the Legislature. We worked with others on Sections 7 and 11 to make sure that this understanding was explicit. Your veto of Sections 7 and 11 – a complete surprise to those involved in the development of these safeguards – causes us to question whether we understand your policy. We do not doubt your intent, and the intent of the DSHS leadership, to provide community services adequate to support RHC residents who transition to the community. However, we are seriously concerned that if these assurances aren't placed in law, the state's commitment to provide service to RHC residents who move to the community will fade with the passage of time or change of administration. So, while we don't question your intent, we do question your ability – and the ability of DSHS - to make good on your promise of adequate community services for these individuals into the future, absent assurances in law. The fulfillment – or failure – of that promise will come not this year,

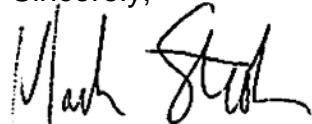
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or next. Rather, we will know the outcome of your policy years from now, when you are no longer in office and the current leadership of DSHS is long gone.

Our skepticism about the viability of the promise to provide community services to RHC residents is fueled by current budget realities and the likelihood of future stagnation and slow recovery. The insecurity of the state's financial posture is a compelling reason for including guarantees of ongoing, high-quality community support. RHC residents currently have assurances in the law that they will continue to receive services while they remain in the institution, regardless of budget pressures. Similar assurances must be in place for those who make the decision to move to the community. We hope that you will support efforts to make this happen in the coming legislative session.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Stroh". The signature is written in a cursive, somewhat stylized font.

Mark Stroh
Executive Director

C: Senator Adam Kline
Susan Dreyfus, Secretary, Department of Social and Health Services
Ed Holen, Executive Director, Developmental Disabilities Council
Toby Olson, Executive Secretary, Governor's Committee on Disability Issues and Employment
Sue Elliott, Executive Director, Arc of Washington