Recently, DDAWNY provided comment to OPWDD on a plan to increase employment and meaningful community activities for people receiving OPWDD services that are consistent with the Americans with Disabilities Act as interpreted by the 1999 Olmstead decision and regulations and guidance issued by the United States Department of Justice.

As DDAWNY indicated in testimony last summer on New York State's Olmstead Implementation Plan, people with disabilities have a right to receive care in the most integrated settings appropriate to their needs. In that testimony, DDAWNY also noted:

"Olmstead expressly noted that the obligation toward more integrated settings is not absolute. The State's responsibility, once it provides community-based treatment to qualified persons with disabilities, is not boundless. The reasonable modifications regulation speaks of "reasonable modifications" to avoid discrimination, and allows States to resist modifications that entail a "fundamental[] alter[ation]" of the States' services and programs.

"In addition, the court in Olmstead also emphasized that "nothing in the ADA or its implementing regulations condones termination of institutional settings for persons unable to handle or benefit from community settings."

"Settings must be appropriate for the individual, the court indicated, noting that a key component of any Olmstead analysis must be whether the individual is qualified. The court also noted, with some emphasis, that moving an individual to a more integrated setting was not a federal requirement that community based settings be imposed on individuals who do not desire it.

"DDAWNY strongly believes that the needs of individuals with disabilities must be respected and state policy ought to support a wide range of choices for people with disabilities in where they live, work and otherwise participate in the community.

Last year, the State Education Office of Adult Career and Continuing Education Services - Vocational Rehabilitation (ACCES-VR), indicated that individuals with disabilities in New York State have an employment rate of 33.8 percent, compared with 76.3 percent for individuals without disabilities.

The American Community Survey (ACS) found similar results looking at the employment rate of individuals with disabilities in New York State in 2007. The ACS found that of the 1,402,603 individuals ages 16-64 "living in the community" about 463,867 (or 33.1%) were employed.
From 2005 to 2010, average hours worked per week have decreased for individuals receiving supports and services from OPWDD.

Current data as reported by the Institute for Community Inclusion 2013 National Report on Employment Services and Outcomes indicates that in 2011, only 21% of people with cognitive disabilities are employed in New York and this is down from the from the 25.3% with cognitive disabilities who were employed in 2008.

Nationally in 2010, according to data from the National Core Indicators Project, only 14.7% of working age adults supported by state IDD agencies participated in integrated employment and Community rehabilitation providers reported that only 27% of individual with IDD worked in integrated jobs, including both individual jobs and group supported employment. Those who are employed typically work limited hours with low wages according to a 2012 report by Human Services Research Institute.

In New York only 13% of the 69,163 individuals with IDD supported by OPWDD worked in an integrated employment setting in 2011. Compared to other large states (more than 15,000 served by state IDD agencies) New York ranks in the middle third of the states. While Ohio, Michigan and Florida all report 20% or more of their IDD populations receiving services in an integrated work setting, and Texas lags with only 5% employed Pennsylvania and California report similar percentage of individuals with IDD served in integrated settings to New York, with 15% and 14% respectively.

<table>
<thead>
<tr>
<th>State</th>
<th>Total Served</th>
<th>Integrated</th>
<th>Facility-based Work</th>
<th>Community-based Non Work</th>
<th>Facility-based Non-Work</th>
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</thead>
<tbody>
<tr>
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<tr>
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<td>5.0%</td>
<td>Not reported</td>
<td>36.0%</td>
<td>Not reported</td>
</tr>
</tbody>
</table>

State Data: The National Report on Employment Services and Outcomes, Winter 2013, Institute For Community Inclusion (ICI) at the University of Massachusetts Boston

DDAWNY would like to offer some concrete recommendations on ways to improve New York’s current employment programs.

In order to transform the employment situation in New York for people with disabilities, OPWDD needs to ensure that individuals with disabilities, who are expressing an interest to work, be supported by the provider community, the business community, and
state and local government.

In 2010 a broad-based coalition of New York State representatives identified the key factors necessary to establish an effective employment system in New York. One that is person-centered, responsive, and flexible. According to the Inclusive Workforce Workgroup these factors include:

- Seamless access to services
- Timely response to individualized needs
- Be inclusive to enable all individuals the opportunity to seek and gain employment
- An effective State partnership with businesses to meet their hiring needs and the needs of job seekers for the jobs they offer
- A State partnership with community based providers
- Mechanisms to provide quick, positive response to an individual seeking employment
- A process that allows for input from the individual and his or her circle of support
- Factors such as self-direction, informed career choice and support of an individual's dignity of risk must drive the workforce culture
- Accountability
- Funding

The needs of businesses include:

- The need for Diversity training
- Financial incentives related to hiring
- On-going staff training, and
- Improved placement outcomes

According to the Workgroup accountability will occur by assuring:

- Job seekers and business are satisfied;
- Businesses are educated, engaged and supported throughout the placement process;
- Providers help individuals find, choose, and maintain employment which matches the person's goals, interests, and skills; and
- Critical data on the attainment of outcomes in the system is collected so true progress can be objectively measured

The funding process must provide:

- Mechanisms to fund the real cost of the work provided to support employees needing assistance to gain and retain employment in a timely manner
• Support the development of pre-determined payment schedules and appropriate funding methods to support reimbursement to any partner that is supporting the job seeker, and
• A sustainable funding methodology

More recently, the National Governor's Association (NGA) outlined a blueprint aimed at increasing employment for individuals with disabilities by focusing on their employment needs. New York in general and OPWDD in particular should advance employment opportunities for people with disabilities by borrowing from the successful models of other states. The NGA identified five topic areas as follows:

• Make disability employment part of the state workforce development strategy
• Find and support businesses in their efforts to employ people with disabilities
• Be a model employer by increasing the number of people with disabilities working in state government
• Prepare youth with disabilities for careers that use their full potential, providing employers with a pipeline of skilled workers
• Make the best use of Limited resources to advance employment opportunities for people with disabilities

In terms of making disability employment part of the state workforce development strategy, the initiative suggests the following critical components:

• Establish Employment as a Priority by:
  o Launching state workforce strategies that intentionally include people with disabilities
  o Adopting Employment First policies and reposition state policies and investments toward integrated employment as a first priority for people with disabilities
  o Insure that state agencies work together to house disability services in one-stop centers

• Tracking Outcomes by:
  o Include disability employment with existing workforce metrics
  o Measure outcomes for disability-related programs that set employment as a goal for people with disabilities
  o Measure the return on investment of disability employment programs

• Make the Business Case for Employing People with Disabilities by:
Approaching businesses to employ people with disabilities based upon the value they bring no by appeals to corporate responsibility

Anticipate questions from business about their concerns for employing people with disabilities

The NGA blueprint also propose States find and support businesses to employ people with disabilities. The report suggest methods to support business include:

- Finding and Engage more Business, by:
  - Dedicating staff with business expertise who can make the business case
  - Working with multiple businesses within a sector (for example financial, health care, or manufacturing)
  - Including Small Business

- Support business by:
  - Providing one point of contact to interact with business, and encourage that contact to communicate regularly
  - Focus on skills assessment and training of workers with disabilities to meet businesses' need
  - Provide job coaches when appropriate for individuals who otherwise would not be able to work in an integrated setting
  - Assist with other accommodations
  - Provide supports to navigate the complexities of disability benefits

- Support Entrepreneurs with Disabilities by:
  - Including resources and services through vocational rehabilitation for entrepreneurs starting and running their own businesses
  - Certify disability-owned businesses

The NGA also pointed out that the State could become a model employer by:

- Creating a fast-track Hiring System using proven actions such as:
  - Waiving civil service exams requirements (partially or fully) to increase access to state and local governmental employment for qualified applicants with disabilities
  - Creating special appointment lists to help agencies locate the skilled workers with disabilities they need, and
  - Offering trial work periods for people with disabilities

- Focus on Retention and Advancement by
Employment Services for People with Developmental Disabilities
A White Paper
DDAWNY
November 2013

- Establishing return to work as the first option for workers who acquire disabilities
- Conduct outreach to educate employees with disabilities about how to request accommodations

- Adopting Complementary Approaches to Becoming a Model Employer by:
  - Designating a task force or advisory panel to bring together stakeholders
  - Ensuring websites and other materials are welcoming, accessible, and easy to navigate
  - Formalizing partnership among human resources and state agencies that work with people with disabilities
  - Creating opportunities for work experiences in government
  - Training managers on disability etiquette and best practices

- Set Hiring Goals and Improve the Use of Data

In terms of preparing youth with disabilities for careers that use their full potential and provide employers with a pipeline of skilled workers the NGA recommends:

- Starting early and incorporate career readiness in K-12 by
  - Integrating youth with disabilities in existing efforts to improve college and career readiness
  - Co-locate vocational rehabilitation counselors and services in high schools
  - Provide other career-readiness and career exploration services, such as career and job fairs, job shadowing and career-focused mentoring

- Providing Work-Based Experience and Skill Development Opportunities by
  - Offering a hybrid of classroom and work-based education
  - Focus on careers in high-tech and science, technology, engineering and math (STEM) fields
  - Prioritizing work experience programs for students with learning disabilities
  - Offering time-limited supportive employment transition experience and reimburse employers for students' training costs

- Supporting College and University Students in Their Transition to Work by:
  - Encouraging collaboration between state vocational rehabilitation
agencies and state colleges and universities to target career services to students with disabilities
  o Coordination between career services and disability services at state colleges and universities
  o Connecting college students with disabilities to internships and job opportunities

Finally, in terms of making the best use of limited resources to advance employment opportunities for people with disabilities, the NGA report recommends:

• Capitalizing on the various federal programs for people with developmental disabilities. This would include:
  o Maximizing the use of ACA funding such as 1915(i), Community Choice First Option and Balancing Incentive Program
  o Using research and evidenced-based practice data collected by the U.S. Department of Education Office of Special Education and Rehabilitation Services
  o Connect to technical assistance for states about employment for people with disabilities at the U.S. Department of Labor Office of Disability Employment Policy

• Connecting to Private-Sector and Philanthropic Resources including:
  o Foundations - both community and corporate who are expressing interest in employing people with disabilities and forming public-private partnerships with states and other governments
  o Community or corporate foundation resources to facilitate experimental projects such as the 21 and Able program in Pennsylvania sponsored by the local United Way
  o Using Foundations to act as a neutral convener to foster public-private partnerships across sectors in a community

• Taking Advantage of the Disability Experts and Their Efforts within the State including
  o The advocacy community
  o The research community and other experts
  o Private-sector stakeholders

DDAWNY strongly believes the recommendations of the Inclusive Workforce Workgroup and the National Governors' Association blueprint provide a wealth of useful and creative solutions and ideas to address the critical employment needs of people with developmental disabilities and would urge OPWDD to use these recommendations
DDAWNY remains concerned New York's current educational system fails to properly educate students with disabilities and fails to adequately train these students to enter the work force. In addition, the transition from school based programming to adult services is uneven and poorly coordinated.

According to New York Commissioner of Education Dr. John B. King, Jr., as of June of 2012, New York's 4-year high school graduation rate was 74% for all students. Unfortunately, the 4-year high school graduation rate for students with disabilities was only 44.7%. Even more alarming is that while 35.3% of all students graduating had graduation test scores correlating with success in first-year college courses and suggest career readiness, only 4.9% of students with disabilities graduated with grades that indicate they were either college or career ready.

DDAWNY believes the state and in particular OPWDD needs to improve transition planning between the education community and adult services.

Basic transition planning requires that schools:

- Counsel every student, along with his or her family, to think about goals for life after high school and to develop a plan to get there;
- Design the high school experience to ensure that the student gains the skills and competencies needed to achieve his or her desired post-school goals; and
- Identify and link students and families to any needed post-school services, supports and programs before the student exits the school system.

DDAWNY believes successful transition planning requires a much more collaborative approach and participation by the various state and local agencies, particularly OPWDD, NYS DOL, Municipal Workforce Development agencies & ACCES-VR, and a partnership with the business, community based providers & the education community in this transition planning process.

In addition, if an individual cannot meet basic employer hiring requirements, OPWDD should consider including both formal (i.e. GED, classroom) and informal (on-the-job) educational (i.e., reading, math, etc.) opportunities as part of the employment services and supports available to individuals with disabilities in the community.
DDAWNY also believes a more coordinated and transparent eligibility process among the agencies will break down silos and permit true collaborative planning and improve education and employment outcomes for individuals with disabilities.

**The lack of meaningful transportation options is a significant barrier to the employment of individuals with developmental disabilities.**

OPWDD needs to recognize that the lack of meaningful transportation options is a significant barrier to the employment of individuals with developmental disabilities. Jobs may not be easily accessible by public transportation. Individuals with disabilities, particularly individuals with ID/DD may lack familiarity with the use of public transportation. Without access to center-based or group day habilitation routine bus or van pick-up and drop off services, individuals with ID/DD lack meaningful transportation options to reach their place of employment. Individuals with ID/DD seldom if ever obtain drivers licenses and unlike other individuals with disabilities are very dependent on public transportation and/or community-based provider transportation options.

Employers need trained employees, at their place of employment, when they have manpower needs. If individuals with disabilities are not trained or cannot get to a place of employment at the times employers seek them, individuals with disabilities will continue to lose the opportunity to engage in meaningful employment.

In order to promote integrated employment supporting greater financial independence, OPWDD needs to recognize that it must create safety nets to ensure ongoing access to essential benefits and provide the supports and services necessary to make-work possible and enable individuals to achieve real gains in economic self-sufficiency.

DDAWNY believes the NYS Workforce system needs to be more responsive and organized to address the needs of both job seekers who have a disability and the business community. There needs to be a partnership with business and the state's various agencies and their community partners providing services and supports for individuals with disabilities to provide the job exploration, vocational training and job readiness services to prepare job seekers to be able to fill the manpower needs of the business community.

DDAWNY believes the State needs to develop clearer pathways for high school students and these pathways must have an "Employment First" focus. These pathways will support more special needs individuals entering the world of work and leading to economic self-sufficiency.

Students that are involved in career exploration and part time employment are
80% more likely to enter supportive work programs, for example, SEMP, and obtain employment after school.

State policy-makers need to provide appropriate vocational training, career exploration, job readiness activities and work tryout for individuals with disabilities. Individuals engaged in group and at-home day habilitation, prevocational and center-based sheltered employment services ought to have an opportunity to participate in these inclusive workforce initiatives.

An inclusive workforce requires a greater focus on information sharing and benefit advisement. State support for critical transitional and employment supports such as initial benefits screenings and analysis, long-term benefits management support as well as asset development and financial literacy services, duties and responsibilities need to be provided and made a funding priority.

DDAWNY supports efforts to increase work opportunities, specifically:

- Enhance the service options within Supportive Work (SEMP) program models
- Broaden the definitions on how SEMP and employment are defined
- Provide individuals who are engaged in OPWDD day programs with the opportunity to become employed
- Allow providers to redesign group day habilitation programs in order to offer a flexible range of employment choices, provide vocational skills and career-directed activities, and assist individuals moving forward to realize greater independence in the community and economic self-sufficiency

DDAWNY fully supports the transformation of our system of services and supports for people with I/DD to ensure the array of service options, consistent with the most integrated setting appropriate mandate, informed choice, self-determination, and an individual’s person-centered plan.

However, DDAWNY remains concerned that the Employment Transformation Plan as envisioned by the CMS-NYS Transformation Agreement may prematurely require the elimination of an employment related option without regard to the needs of individuals currently receiving HCBS services in this setting.

As noted previously, Olmstead does not impose a federal requirement that community-based settings be imposed upon an individual who does not desire such a setting. The Special Term and Condition requiring the Employment Transformation Plan to include a timeline for closing sheltered workshops should not force individuals with developmental disabilities who have relied on this important stepping stone to supportive and competitive employment or, because the setting has been determined pursuant to a person-centered process to be the most appropriate to his or her needs to be eliminated as the chosen employment option.
DDAWNY believes any timeline developed needs to recognize and support:

- The current **choices** of individuals currently receiving services in this setting,
- The **capabilities** of those individuals to engage in meaningful work-related activities in other settings,
- The **capacity within the community** to provide more community-based work opportunities to these individuals and
- The very serious **transportation** related challenges these individuals will face in obtaining other work experiences in the community in the absence of the development of new or alternative transportation capacity required to support these individuals.