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Testimony to  
House Health & Human Services Committee  
Representative Brenda Landwehr, Chair  
February 7, 2012  
By Shannon Jones, KACIL

Overview of CILs ~~ In 1978, KS received 3 of the first 15 federal grants from the US Dept of Education. Those CILs were located in Hays, Topeka and Lawrence. The Dept of Ed found and funded these unique organization to provide peer led services. PWD wanted equal rights, not special rights. After 3 decades, CILs in our state have been valued and respected in the building of a strong network of now 12 CILs. In fact, in 1997, CILs were asked by the state to be the Medicaid providers for the state for self directed services

Introduce CIL Directors. The directors of most of the CILs are here with me today. These directors are the unsung heroes and heroines of the disability rights movement. I am amazed by all of them collectively and by each one of them individually. They are amazing dedicated leaders and advocates, working nearly 24 hours a day to ensure every Kansans with a disability of any age has the right to live in freedom. Each of these directors deserve a spotlight. Each and every one of them is literally on call 24 hours, 365 days a year, every day, every year. They answer crisis calls, write grants, balance budgets, beg for money, run board meetings, clean up messes, hold the hands of customers and staff, listen to their stories, challenge authorities, supervise staff, train community members, work on committees, worry about funding, push back on retaliation and discrimination and on and on. Most of these directors have been in these

positions for many years, not because of the money or the job description, they are in it because of their passion for the civil rights of PWD. The path is never an easy one, nor is it paved with gold and silver. I hope after this hearing you take a moment to thank these great leaders.

- I. CILs are the safety net for all PWD, for example, MH consumers are referred to us to help fill out paperwork and often times we fill in for MH crisis situations. We are there for the CDDOs to refer difficult cases with behavioral issues. We are the problem solvers in our communities.
- II. CILs were active in the passage of the Americans with disabilities Act of 1990. CILs have instructed their cities and counties on how to come into compliance in their local communities to call for accessible features, such as curb cuts, accessible parking implement, making them accessible to all people. Calling for curbs, accessible
- III. Over the course of 30 years we have provided the 5 core services to over 500,000 Kansans with disabilities at no charge; peer support, individual advocacy, IL skills training, and transition services. Over this same period of time, we have transitioned over 2,500 persons from costly nursing facilities to the community, saving the state over \$100 M in NF costs.
- IV. In 2004 legislative post audit conducted a study of CILs to determine if persons on the PD waiver were being authorized more hours of service when the same agency was their payroll provider. The conclusion, found on page 6 states; **“Although the opportunity exists for independent living centers to benefit financially by authorizing more hours of attendant care services for their clients when they also serve as the payroll agent, we found no evidence that was occurring. These agencies actually offered fewer hours of service for clients in these situations.”**

Last year, our newest CIL in SW KS, was closed down due to findings of a state audit. They were not performing well and were shut down. We support this action.

However, now it feels as the rest of the CILs are being targeted and retaliated against. All state grants have been reduced, our FMS administrative rate has been significantly reduced without any input from provider, the faulty implementation of EVV is a nightmare that folks in Topeka, don't seem to know or care about what's happening on the ground, state audits have been conducted on all CIL, (that's good) , but the findings are for such things as messy timesheets, no signature, etc, inadvertant mistakes, not intentional fraud. Yet, the state has taken these amounts, extrapolated their findings and are now asking CILs for recoupments of up to \$2M. No other state recoups money without first requesting a Corrective Action Plan for inadvertant errors. Only 5 audits of the 12 CIL audits have been released in draft form, but for those 5, recoupments amount to over \$5M.

### Olmstead History

One of the Congressional intents by passing Americans with Disabilities Act (1990) was to prohibit discrimination against individuals with disabilities by public entities: "no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity. (42 U.S.C. §12132. A part of the implementing regulation states that, "the most integrated setting is one that enables individuals with disabilities to interact with nondisabled persons to the fullest extent possible....(28 C.F.R. Pt. 35, App. A (2010).

In *Olmstead v. L.C.*, 527 U.S. 581 (1999), the Supreme Court upheld Title II of the Americans with Disabilities Act (ADA) prohibiting the unjustified segregation of individuals with disabilities. The Supreme Court held that states are required to provide community-based services to persons with disabilities when (a) such services are appropriate; (b) the affected persons do not oppose community-based treatment; and the community-based services can be reasonably accommodated, taking into account the resources available to the state and the needs of others who are receiving disability services from the state. The Supreme Court explained that this holding "reflects two evident judgments." First, "institutional placement of

persons who can handle and benefit from community settings perpetuates unwarranted assumptions that persons so isolated are incapable or unworthy of participating in community life.” Second, “confinement in an institution severely diminishes the everyday life activities of individuals, including family relations, social contacts, work options, economic independence, educational advancement, and cultural enrichment.” (42 U.S.C. §12101).

The statements and directives coming from the U.S. Department of Justice indicates that each state has the responsibility to develop an Olmstead Plan. Yet, in Kansas, the responsible agency has Social and Rehabilitation Services has stated in writing that they don't have to fulfill such a requirement.

Now, I'd like to introduce Deone Wilson, RCIL to about the hardships occurring in the field with EVV implementation. Next, Greg Thyfault, will speak about the value of CILs.