Celebrating a Major Victory in the Last Great Civil Rights Battle

On June 22, 1999, the U.S. Supreme Court issued a landmark decision called *Olmstead v. L.C.* This ruling told the states they could not put chronically-ill or disabled persons into institutional settings without first exhausting every opportunity to care for them at home. This ninth anniversary of such an important victory, in what I call the last great civil rights battle, is an occasion to be celebrated.

The lawsuit was brought by a group of disabled persons who argued that their constitutional rights were being jeopardized. They won in the Federal District Court only to be reversed in the Court of Appeals. Believing their cause was just, they appealed the case to the Supreme Court.

At this highest level, they repeated the case they had made and won at the District Court level: a) that federal programs such as Medicare and Medicaid suffered from an institutional bias; b) that billions of dollars were being spent to place critically-ill and disabled persons into facilities, and that only a fraction of this amount was spent by the states to care for these same populations in their homes; c) that once confined to institutions, most people never leave until their death, spending an average of two and a half years therein, while many stay much longer; d) that institutionalized critically-ill and disabled persons were deprived of the fundamental freedoms preserved for all Americans through the Bill of Rights; e) that institutionalized persons lead a regimented and regulated existence; and f) that they were deprived of the quality of care and quality of life, which they would have enjoyed if they were cared for in a home setting. The defendants denied these assertions and added that it would be impractical if not impossible to care for this critically-ill and disabled population with individualized home care.

Nine years ago the Supreme Court decided in favor of disabled persons, striking a blow against the hidden prejudice which seemed to sanction sequestering individuals who were critically ill, disabled, or close to the end of their lives. “The unjustified isolation of persons with disabilities,” said the Court, “is a form of discrimination” in conflict with the U.S. Constitution.

In telling the states they could not place chronically-ill or disabled persons in institutions without exhausting every effort to care for them at home, the Court in effect established a constitutional right to home care. U.S. citizens have a right, said the Court, to be cared for in their homes whenever this is possible. This means that all the freedoms in the Bill of Rights must be guaranteed to them like all other citizens until the end of their lives.

*Olmstead* set off a tidal wave of activity. Every state began to change its practices away from isolated and institutional care to home and community-based care. States began to “rebalance” their Medicaid programs, erasing their institutional bias and embracing home health care. The importance of these measures to the states cannot be overemphasized. Medicaid, the federal-state grant-in-aid program which provides health care to indigents, today accounts for one out of every five dollars in each state’s budget. Moreover, most of these costs relate to care of the aged, critically ill, and disabled. By preferring home care, the states have begun to ease the pressure on their budgets as well as to treat patients efficaciously and with dignity in the setting they prefer most.

The National Association for Home Care & Hospice (NAHC) supported *Olmstead* from the beginning. Today, through its Center for Health Care Law, NAHC continues to monitor the progress by the states in implementing the Court’s mandate. While compliance with provisions of *Olmstead* varies from state to state, the Court’s decision has already paid dividends. There is no doubt that chronically-ill and disabled persons are better off receiving care in their own homes. This helps keep families together. It helps friends and families in their efforts to care for their loved ones. As mentioned above, states are better off in many ways. The federal government, which pays for 100 percent of Medicare and for the lion’s share of Medicaid, has also experienced relief because of the decreased costs of home care.

The obvious point is that doing the right thing pays dividends for society at every level. We have yet to totally win the last great civil rights battle, but we have made great progress in the last nine years, much of it attributable to the Supreme Court ruling in *Olmstead.*