

March 13, 2018

Judiciary Chairman and Committee -

In an ICF/ID, the focus is on the resident and their choice. Many residents who reside in an ICF/ID choose to remain there as it is their home, and they have built relationships there. The State of Utah has offered the Home and Community Based Waiver for many years. This gives residents residing in an ICF the opportunity and choice to transition and move out of the facility. There have been instances where residents who previously had applied and been approved to move out of the facility, made the choice later to decline that transition and reside in the ICF/ID.

Class Actions against ICF homes defy the Americans with Disabilities Act (ADA) and Olmstead that honor the individual and make each person's unique needs and choices paramount in accessing accommodations for persons with disabilities. The issues at stake in a class action against ICFs are of a very personal nature, and resolving these questions on a class basis in federal court abridges the rights of class members whose interests are different from those of the named plaintiffs. This could be very costly to family members who wish to protect their loved ones' interests.

It is our position that P&A class actions should not be allowed, as this would go against the interests of P&A's own clients -those class members who want to remain in ICF/ID facilities. We feel there should be oversight of the P&A program to ensure that they are properly carrying out their duties under the law – the duty to protect and advocate the rights of all individuals with developmental disabilities.

ICF/ID facilities provide a necessary service in the continuum of care. We support the decision of residents who make the choice to transition out of those homes into the community. To the residents that choose to remain in our facilities we take all measures to ensure it is a home-like, comfortable and enjoyable residence for them.

We appreciate your time in considering our position in this important issue.

***Utah Health Care Association ICF/ID Committee***