

## Background for VOR's 2017 Legislative Requests

- 1. The DD Act of 2000.** The DD Act *authorizes* the existence of the DD Act programs, including the DD Councils and the P&A lawyers, and sets the maximum level of annual funds for them. In response to several P&A class actions in the 1990s, VOR was able to secure the inclusion of *statutory language* in the DD Act of 2000 that identifies individuals with I/DD and their families, not federally-funded P&A attorneys, as the “primary decisionmakers” regarding the services their loved ones receive. The *legislative history* states that the goal of serving people in the least restrictive environment “may not be read as a Federal policy supporting the closure of residential institutions.” The actual amount of funds is provided annually through a separate *appropriations* process.
- 2. P&A lawsuits.** Despite the clear language of the DD Act, the P&As continued to file class action lawsuits (more than 30 overall). VOR responded by drafting legislation to stop this mass deinstitutionalization ideology that ignores the wishes of the families and results in high levels of neglect, abuse and death.
- 3. Legislative preparation: VOR funded the Kevin Walsh study** to debunk the myth that ICF costs were higher than HCBS costs. The study found no significant cost difference for similar people receiving similar services from similarly qualified staff. Walsh also did a study that found that, for people with very high levels of disability, quality of care is best measured by the level of health and safety, not the ability to make choices.
- 4. Federal legislation.** From 2007 until he retired in 2012, Barney Frank authored House legislation that would have limited P&A class action suits to only those individuals who chose not to opt out of them. Congressman Frank was brilliant and abrasive, but highly respected. At its height, the bill had 90 co-sponsors, from across the political spectrum, with a few more Republicans than Democrats. Despite this significant support, the bill never received a hearing. No comparable bill was introduced in the Senate and no House bill has been introduced since Mr. Frank retired.
- 5. Appropriations.** The DD Act's authorization for funding ran out in 2007. Since then, it has been funded through annual appropriations. VOR has succeeded in securing limitations on P&A class action activities through the appropriations process, starting in fiscal year 2016 (see the appropriations one-pagers), as well as on DOJ actions. The statutory language requires notice of any lawsuit to affected parties and the accompanying report language urges the agencies to respect the right of choice under the ADA and the *Olmstead* decision.
- 6. 2017: DD Act and Appropriations.** A DD Act reauthorization bill is the logical vehicle for change (and the only way to secure permanent change) but the authorizing committees are focusing on repeal and replacement of the ACA. Thus, VOR is pressing for further restrictions in the fiscal year 2018 appropriations until the authorizing committees have time to focus on the DD Act. Appropriations language will also send a signal to new administration officials.