

Disability Integration Act of 2015

The purposes of this Act are—

- (1) to clarify and strengthen the ADA's integration mandate in a manner that accelerates State compliance;
- (2) to clarify that every individual who is eligible for long-term services and supports has a Federally protected right to be meaningfully integrated into that individual's community and receive community-based long-term services and supports;
- (3) to ensure that States provide long-term services and supports to individuals with disabilities in a manner that allows individuals with disabilities to live in the most integrated setting, including the individual's own home, have maximum control over their services and supports, and ensure that long-term services and supports are provided in a manner that allows individuals with disabilities to lead an independent life;
- (4) to establish a comprehensive State planning requirement that includes enforceable, measurable objectives that are designed to transition individuals with all types of disabilities at all ages out of institutions and into the most integrated setting; and
- (5) to establish a requirement for clear and uniform annual public reporting by States that includes reporting about—
 - (A) the number of individuals with disabilities who are served in the community and the number who are served in institutions; and
 - (B) the number of individuals with disabilities who have transitioned from an institution to a community-based living situation, and the type of community-based living situation into which those individuals have transitioned.

What is the Disability Integration Act?

The Disability Integration Act (DIA) is civil rights legislation, introduced by Senator Schumer to address the fundamental issue that people who need Long Term Services and Supports (LTSS) are forced into institutions and losing their basic civil rights. The legislation (S.2427) builds on the 25 years of work that ADAPT has done to end the institutional bias and provide seniors and people with disabilities home and community-based services (HCBS) as an alternative to institutionalization. It is the next step in our national advocacy after securing the Community First Choice (CFC) option.

What does the Disability Integration Act do?

The legislation, when enacted, establishes new federal law - similar in structure to the ADA - that requires states and insurance providers that pay for LTSS to change their policies, provide community-based services first, and offer HCBS to people currently in

institutions. DIA operates alongside CFC, but these two laws work very differently. CFC is an option which states can choose. Even though CFC provides money for states to support independent living, many states have not chosen CFC. DIA requires states and insurance providers that pay for LTSS to make real and meaningful changes that support the right of people with disabilities to live in freedom like every other American.

How does the Disability Integration Act work?

The proposed legislation establishes new federal law - structured like the ADA - that says *“No public entity or LTSS insurance provider shall deny an individual with an LTSS disability who is eligible for institutional placement, or otherwise discriminate against that individual in the provision of, community-based long-term services and supports that enable the individual to live in the community and lead an independent life.”*

DIA makes it illegal for a state and insurance providers that pay for LTSS to fail to provide HCBS by using waiting lists, screening people out, capping services, paying workers too little for services, or the other excuses that have been used to keep people with disabilities from living in freedom. DIA requires each state to offer community-based services and supports to any individual who is eligible to go into an institution. It also requires states to take active steps to make sure that there is enough affordable, accessible, integrated housing.

How will the Disability Integration Act be enforced?

The legislation requires states and LTSS insurance providers to complete a self-evaluation to evaluate current services, policies, and practices that do not or may not meet the requirements of the Act and to make the necessary changes in services, policies, and practices required to comply with the law. Additionally, public entities are required to develop a transition plan using an extensive public participation process. Public entities that fail to comply with the law may face legal action for the Attorney General or may be sued directly. People who have been discriminated against may receive damages under the law.

What is required under the Disability Integration Act?

1. Public Entities and Insurance Providers that Pay for LTSS Cannot Discriminate Against People with Disabilities When Providing HCBS

- Public entities and insurance providers that pay for LTSS cannot use eligibility criteria that prevent an individual or class of individuals from receiving HCBS;
- Public entities and insurance providers that pay for LTSS cannot limit the availability of services to individuals who need such services based on cost or service caps;

- Public entities and insurance providers that pay for LTSS cannot refuse to pay for a specific service needed by an individual or class of individuals and must also provide services and supports that are needed on an intermittent, short-term or emergent basis;
- Eligible individuals must be provided with services in a HCBS without unnecessary delay or restriction of services;
- Public entities and insurance providers that pay for LTSS cannot require people to use informal supports;
- Public entities and insurance providers that pay for LTSS cannot impose policies that restrict an individual or class of individuals from living in the community and leading an independent life, like a requirement that the individual must be in a congregate or disability-specific setting; and
- Public entities and insurance providers that pay for LTSS must make reasonable modifications to policies, practices, and procedures.

2. Public Entities and Insurance Providers that Pay for LTSS Must Establish Adequate Payment Structures for HCBS services

- Public entities and insurance providers that pay for LTSS must create payment structures that will maintain a sufficient workforce to provide services in HCBS for all individuals that require such services

3. Public Entities and Insurance Providers that Pay for LTSS Must Inform People with Disabilities of Their Right to Receive Services and Supports in the Community

- Individuals in institutional settings must be regularly provided with information to help them understand that they have the right to choose to receive services and supports in the community; and
- Individuals at risk of institutionalization must be provided with information to help them understand that they have the right to choose to receive services and supports in the community before they are placed in an institutional setting.

4. Public Entities Must Increase Affordable and Accessible Housing Options

- Public entities must develop plans to increase the availability of affordable and accessible private and public housing for individuals with disabilities.