



## Section 811 Program Frequently Asked Questions (FAQs)

### Part One: General Section 811 Questions

#### Question #1: What is the Section 811 Program?

The Section 811 Supportive Housing for Persons with Disabilities program is a U. S. Department of Housing and Urban Development (HUD) supportive housing program that assists the lowest income people with significant and long-term disabilities to live independently in the community by providing affordable housing linked with voluntary services and supports. According to the Section 811 statute, the purpose of Section 811 is "to enable persons with disabilities to live with dignity and independence within their communities by expanding the supply of supportive housing that:

- Is designed to accommodate the special needs of such persons;
- Makes available supportive services that address the individual health, mental health and other needs of such persons; and
- Promotes and facilitates community integration for people with significant and long-term disabilities."

#### Question #2: What is the Frank Melville Supportive Housing Investment Act?

In December of 2010, Congress passed bi-partisan legislation – the Frank Melville Supportive Housing Investment Act (Melville Act) – which includes important Section 811 reforms to stimulate the creation of thousands of new integrated permanent supportive housing units every year. The Melville Act revitalizes and reinvigorates the Section 811 program as a federal mechanism to assist states to develop new policies and more systematic approaches for expanding integrated supportive housing for high-need, high-cost individuals who may be living unnecessarily in an expensive institutional setting, or who may be homeless, or at risk of either condition.

#### Question #3: What has changed as a result of the Melville Act?

Since its inception, the Section 811 program (and its precursor the Section 202 Supportive Housing for the Handicapped program) was used to create group homes and independent living apartment complexes that were exclusively reserved for people with disabilities.<sup>1</sup> Before the Melville Act was signed into law, competitive Section 811 funding was made available by HUD every year only to nonprofit organizations seeking to develop supportive housing. Section 811 provided these nonprofits with two types of funding: (1) a Capital Advance to buy, rehabilitate, or construct the housing; and (2) a Project Rental Assistance Contract (PRAC) to cover the costs of operating the housing (i.e., maintenance/repair, insurance, utilities, project reserves, etc.) that could not be

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<sup>1</sup> The purchase of condominium and cooperative housing units was – and continues to be – an authorized use of Section 811 Capital Advance funds. However, this option – which can help to expand integrated supportive housing – was very difficult to implement and has not produced a significant number of Section 811 units.

covered by tenant rents. Section 811 tenant rents were – and continue to be – set at 30% of tenant income to ensure affordability for people with disabilities with the lowest incomes.

The new Melville Act incentivizes the creation of more integrated Section 811 housing approaches through two new options:

1. A new Section 811 Project Rental Assistance (PRA) approach provides PRA funding directly to State Housing Agencies working in partnership with State Human Services/Medicaid agencies to create integrated supportive housing. Under the PRA approach, no more than 25% of the units in the Section 811 assisted property can be set aside for people with disabilities.
2. A new Section 811 Multifamily approach which provides both Section 811 Capital Advance and PRAC funding to a nonprofit organization to create integrated supportive housing. Under the Section 811 Multifamily option, no more than 25% of the units in the Section 811 assisted property can be set aside for people with disabilities.

[NOTE: The Melville Act continues to permit the development of group homes and independent living apartments exclusively for people with disabilities. The Melville Act also ended the Section 811 Mainstream tenant-based rental assistance program and permanently transferred 14,000 Section 811 Mainstream vouchers to the Section 8 Housing Choice Voucher program.]

#### **Question #4: Why were Section 811 program reforms needed?**

Section 811 reforms were essential for several reasons:

1. States are now seeking new strategies to develop more integrated supportive housing opportunities that are consistent with the community integration mandates within the Americans with Disabilities Act (ADA). Numerous states have federal *Olmstead*-related lawsuits/settlement agreements (see below) which require the creation of thousands of new integrated supportive housing opportunities for people with disabilities who are either leaving restrictive settings (i.e., nursing homes, public institutions etc.) and/or who cycle between homelessness, jails, and institutional settings.
2. Since the Section 811 program was authorized in the early 1990s, disability housing and services policies have evolved to focus more on consumer choice, Medicaid-financed community-based services and integrated housing opportunities. The Section 811 program did not keep pace with these improvements in community living for people with disabilities.
3. The "old" Section 811 Capital Advance/PRAC model and development process was very time consuming. Most nonprofit Section 811 developers relied on Section 811 Capital funding to cover most of the cost of creating the housing, and rarely leveraged funding from mainstream affordable rental housing development programs. As a result, Section 811 consistently received very low ratings from the federal Office of Management and Budget, and was producing fewer than 1,000 new units each year. Major reforms to this symbolic program were essential to securing the program's future viability.

### **Question #5: What is integrated supportive housing?**

Supportive housing is an evidence-based approach that combines permanent affordable rental housing with voluntary, flexible and individualized services to assist the most vulnerable people with disabilities to live in the community. Through a substantial body of research conducted over the past 20 years, supportive housing has proven to be a cost-effective and successful approach to addressing the affordable housing and supportive services needs of people with significant and long term disabilities who need community-based supports and services to live in the community.

### **Question #6: What is *Olmstead*?<sup>2</sup>**

The landmark 1999 U.S. Supreme Court's *Olmstead vs. L.C.* decision (527 U.S. 581) held that title II of the Americans with Disabilities Act (ADA) prohibits the unjustified segregation of individuals with disabilities. According to the U.S. Department of Justice (USDOJ) *Olmstead* website, in enacting the ADA, Congress recognized that "historically, society has tended to isolate and segregate individuals with disabilities and ... such forms of discrimination ... continue to be a serious and pervasive social problem. For these reasons, Congress prohibited discrimination against individuals with disabilities by public entities."

USDOJ guidance implementing ADA regulations require public entities to "administer services, programs, and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities." The preamble discussion of this regulation explains that "the most integrated setting" is one that "enables individuals with disabilities to interact with nondisabled persons to the fullest extent possible".

Under the *Olmstead* decision, the Supreme Court held that public entities 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 (c) community-based services can be reasonably accommodated taking into account the resources available.

### **Question #7: Why is *Olmstead* important to the reformed Section 811 program and the integrated supportive housing approach?**

The reformed Section 811 program is an important tool for states to ensure they are in compliance with the ADA, as interpreted by *Olmstead*, and to implement *Olmstead*-related settlement agreements in states. During recent years, disability rights organizations and USDOJ have undertaken various legal actions (i.e., investigations, lawsuits, settlement agreements, etc.) to ensure that state governments are complying with the community integration requirements of the ADA. As a result, numerous states are now legally required to expand integrated supportive housing opportunities. For example, six separate *Olmstead* settlement agreements in four states require the creation of an estimated 20,000 new integrated supportive housing opportunities. Other states are looking to programs such as Section 811 to show that the state is taking affirmative steps to reduce reliance on segregated settings and to expand integrated housing opportunities.

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<sup>2</sup> This text, including all text in quotes, is drawn from the *U.S. Department of Justice Statement of the Department of Justice in Enforcement of the Integration Mandate of Title II of the Americans with Disabilities Act and Olmstead v. L.C.* The full text can be found at: [http://www.ada.gov/olmstead/q&a\\_olmstead.htm](http://www.ada.gov/olmstead/q&a_olmstead.htm)