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United States Senate

July 17, 2018

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VIA ELECTRONIC DELIVERY

Ms. Mary Lazare
Principal Deputy Administrator and Acting Commissioner on Disabilities
Administration for Community Living
U.S. Department of Health and Human Services
330 C ST. SW
Washington, DC 20201

Dear Principal Deputy and Acting Commissioner Lazare:

I am writing in regard to public reports that you made alarming remarks regarding the *Olmstead v. L.C.* Supreme Court decision at an event on July 12, 2018. In addition, it is my understanding that your public comments were consistent with views you expressed in a number of meetings with the disability community that you believe *Olmstead* was decided incorrectly and that you hold a preference for segregated and institutional settings for persons with disabilities.

I ask that you clarify your statements and position on these reported remarks and the *Olmstead* decision. As reported, your remarks were disturbing, create distrust and raise serious questions concerning your ability to effectively serve in your current position. The disability community has worked tirelessly to secure full inclusion, consistent with bipartisan Federal laws such as the American with Disabilities Act (ADA), and deserves an Acting Commissioner on Disabilities who shares a commitment to achieving this goal.

Though I have yet to see a full transcript of your remarks, I have read your public apology issued on social media – which indicates you may understand the gravity of this situation:

“Mary Lazare: I regret & apologize for my words at #ASAconf18. ACL believes ppl w/disabilities have the right & choice to live in the community. We work to expand those opptys & are 100% committed to that mission. We also recognize Olmstead gives people the right to other choices.”

As you should be aware, the *Olmstead* decision is the law of the land, and holds that individuals with disabilities have the right to be included in the broader community rather than forcibly segregated in institutions. The segregation, which you reportedly support, violates title II of the ADA. The Court held that public entities must provide community-based services to persons with disabilities when such services are appropriate; the affected persons do not oppose community-based treatment; and community-based services can be reasonably accommodated, taking into account the resources available to the public entity and the needs of others who are receiving disability services from the entity.

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I was also alarmed to hear that you have expressed that the Centers for Medicare and Medicaid Services (CMS) Home and Community Based Services (HCBS) rule should be revisited. The HCBS Settings rule requires that Medicaid-funded HCBS programs support settings that maximize opportunities to live, work and receive services in integrated, community settings where people with disabilities and older Americans can fully engage in community life. The Settings Rule has broad support from people with disabilities, older adults, their families and advocates. As a product of thousands of public comments reflecting a wide range of perspectives gathered over more than five years of a robust rulemaking process, the Settings Rule is another important step in the movement toward full integration of people with disabilities.

In addition to providing clarity on your comments and views, I would like to meet with you to discuss how you intend to uphold the Administration for Community Living's (ACL) mission to ensure that "all people, regardless of age or disability, should live independently and participate fully in their communities." I look forward to hearing how you, as a key part of ACL's leadership, will commit to uplifting integration and the principles of the *Olmstead* decision for the disability community.

Thank you in advance for handling my request in a timely manner. Please contact Josie Villanueva, at 202-224-2854 or josie_villanueva@duckworth.senate.gov to discuss further arrangements for our meeting.

Sincerely,



Tammy Duckworth
United States Senator