

IX. Community Housing

A. Introduction

Living in and being a member of one's community requires housing. Suitable, safe, affordable, and accessible housing is the foundation of inclusive communities with opportunities for education, employment, relationships, and active participation. In Virginia and nationally, citizens are being priced out of the housing market, especially individuals with disabilities receiving Supplemental Security Income (SSI) benefits or whose income is otherwise limited. Many people with disabilities can and would choose to live independently with or without supports if they had access to affordable, accessible housing options. This chapter emphasizes the availability and sources of affordable accessible housing for people with disabilities, particularly those with low to moderate incomes.

To create real and meaningful opportunities to reverse Virginia's historic institutional bias in funding of housing for people with disabilities, it is necessary to acknowledge the community housing challenges associated with the deep poverty that a majority of people with disabilities experience. Median income is an important housing policy indicator because most government housing programs have eligibility requirements related to median income. Under current federal guidelines, housing is considered to be affordable for low-income households when the cost of monthly rent, including tenant-paid utilities, does not exceed 30 percent of monthly household income. Data reported in *Priced Out in 2008: The Housing Crisis for People with Disabilities* and *Out of Reach 2008* by the National Low Income Housing Coalition show that the annual income of a single individual in Virginia receiving SSI equaled only 15.6 percent of median income. This is almost 30 percent below the 2008 federal poverty level of \$10,400 for an individual, and as a result, the housing affordability gap for people with disabilities in the Commonwealth is significant.

Key factors contributing to this gap between supply and demand for affordable, accessible housing in Virginia have been identified, and despite current efforts by state and local agencies and other providers, limited resources and aging of the general population are expected to widen this gap. According to the *2009 American Community Survey Estimates* (www.uscensus2010data.com/51-virginia-household-education-immigration-demographics), Virginia's population that year included 831,775 non-institutionalized individuals with a disability. Of those, 65,085 were under age 18; 440,575 were between ages 18 and 65; and 326,115 were over age 65. The Social Security Disability Insurance Program's 2009 annual statistical summary (www.ssa.gov/policy/docs/statcomps/di_asr/2009/sect01.html#chart2) reports that 207,482 of Virginians between ages 18 and 65 received SSI, Social Security Disability Income (SSDI), or both, and 218,064 total individuals of all ages received SSI or both. For individuals, regardless of age, who rely on SSI benefits as their major or only source of income, the cost of housing makes it virtually impossible to afford decent, safe housing in their

local community. Virginians receiving SSI benefits are at extreme levels of poverty and facing a housing crisis.

In the ten years since it was first published, *Priced Out in 2008* reports that the amount of monthly SSI income, adjusted for inflation, that is needed to rent a modest one-bedroom unit has risen an astonishing 62 percent, from \$462 (69 percent of SSI) in 1998 to \$749 (112 percent of SSI) in 2008. Other data in this report supports the statement above that individuals with disabilities who rely on SSI payments as their source of income continue to be some of the poorest people in the nation. Together, these two national reports provide a vivid picture of the housing challenges faced by Virginians, with and without disabilities, who have low to moderate incomes.

- In 2008, to afford the Average Fair Market Rent of \$941 per month for a two-bedroom unit without paying more than 30 percent of income on housing, a household had to earn \$3,136 monthly (\$37,635 annually). Working 40 hours per week, 52 weeks per year, this equates to an hourly wage of \$18.09, which is referred to as the “Housing Wage.”
- That same year, a worker earning the minimum wage of \$5.85 per hour could afford monthly rent of no more than \$268 and would need to work more than 127 hours per week to afford a two-bedroom unit at the state’s Average Fair Market Rent.
- Based on federal guidelines, a SSI recipient receiving \$637 per month, the unreduced benefit amount for 2008, could afford monthly rent of no more than \$191 at 30 percent of that monthly SSI benefit, well below the Average Fair Market Rent of \$818 for a one-bedroom unit. That year, in Virginia, 82,629 non-elderly adults (ages 18 to 64) with disabilities received SSI benefits.

Nationwide, since the release of these reports, SSI benefit increases have not kept up with rising housing costs. The unreduced SSI benefit as of January 1, 2011, is \$674 for an individual and \$1,011 for a couple. The annual cost of operating one unit of affordable housing funded by the Virginia Housing Development Authority (VHDA) can range from \$3,000 to \$5,000 per unit, before factoring in debt service or mortgage payments. As noted above, people with disabilities receiving SSI can only afford to pay 30 percent of their income in housing costs, which as of January 1, 2011 is \$202 per month or \$2,424 per year.

Virginia now ranks among the ten lowest states in average income for a person with a disability receiving SSI, and the situation is more severe in rapidly growing urban areas than in the state as a whole. Affordability is at the core of providing accessible community housing for individuals with disabilities and a wide range of options, including such things as ongoing rent subsidies, must be considered. With this in mind, a discussion of other related issues and steps being taken to address them in Virginia follows.

Since the 1999 U.S. Supreme Court decision in *Olmstead v. L.C.* (www.law.cornell.edu/supct/html/98-536.ZS.html) requiring that individuals with disabilities be served in the most integrated setting appropriate to their needs, the development of affordable, accessible

community housing for people with disabilities has been identified as a needed priority nationwide. In Virginia and across the country, the federal **Money Follows the Person (MFP)** demonstration and other initiatives aimed at moving individuals from institutions to the community have been hampered by the lack of affordable, accessible housing.

The income barriers identified above and a lack of comprehensive coordination of resources on the federal, state, and local level have perpetuated a long-standing disconnect between housing and disability services agencies. In Virginia, momentum has been building during the past two years to bridge this disconnect. The state's *Comprehensive Cross-Governmental Strategic Plan to Assure Continued Community Integration of Virginians with Disabilities* was developed and adopted in 2007 in response to the *Olmstead* decision, following development of numerous recommendations by a multi-year Olmstead Task Force. As of March 2011, the latest update of this strategic plan, released in June 2009, was under review and revision. It contains the following housing expectations:

- “Housing will be accessible for people leaving institutions or at risk of becoming institutionalized.
- “Housing will be affordable for people leaving institutions or at risk of becoming institutionalized.
- “Housing will be available and appropriately located.”

Virginia's **Community Integration Advisory Commission** and the associated **Community Integration Implementation Team** have been involved in a wide variety of interagency activities in support of these goals. Two federally funded initiatives administered by the Department of Medical Assistance Services (DMAS), the MFP demonstration mentioned above and the **Systems Transformation Grant** discussed further in the Community Supports chapter of this assessment, are also underway to bring system reform to services spanning multiple agencies.

In late February 2011, the **U.S. Department of Justice (DOJ)** issued finding from its investigation of Central Virginia Training Center, which was expanded to all five of the state's training centers. In that report, discussed in greater detail in the Institutional Services chapter, DOJ found that the Commonwealth was not in compliance with the *Olmstead* decision or the mandate under the *Americans with Disabilities Act* to provide services for individuals with disabilities in the most integrated setting. Ensuring sufficient affordable, accessible community housing options is sure to be a component of the negotiations now going on between the state and DOJ. The DOJ report will likely also shape activities by the Community Integration Advisory Commission and Implementation Team.

The *2008-2010 Statewide Plan for Independent Living*, developed by the **Virginia Statewide Independent Living Council (SILC)**, features additional goals and activities to improve housing planning, coordination, and options. The SILC, created under the *Code of Virginia* (51.5-25.1), is an independent planning body that promotes community inclusion,

participation, and access for all Virginians with disabilities. Recognizing the need for disability advocates to participate more effectively in housing policy discussions and to influence the allocation and use of federal housing resources, the SILC strategic plan sets specific goals and calls for activities, including the commitment of financial resources, addressing housing needs. To carry out the SILC's plan, local **Centers for Independent Living (CILs)** will:

- “Work with the Office of Community Integration and the Money Follows the Person (MFP) Housing Task Force to determine local housing capacity needs and develop and pursue strategies to address those local housing needs with appropriate local, state and federal policymakers.
- “Support development of the Money Follows the Person Operational Protocol to identify means of informing residents of institutional settings of community living options and assist them in becoming better self-advocates when they make the transition into the community.
- “Improve housing policy on the local and state levels by ensuring that the housing needs of people with disabilities moving from institutions to the community are included in local plans and planning processes.
- “Enhance the knowledge of HUD [the U.S. Department of Housing and Urban Development] and local housing authorities on the housing/community living needs and preferences of people with disabilities.
- “Create a mechanism to track local changes in public policy and relate ongoing needs/solutions to statewide and national housing funding agents and authorities.”

CILs have been successful in facilitating dialogs and opportunities at the local and state level that better integrate housing for people with disabilities into planning processes. Local government involvement in statewide planning efforts is critical if housing capacity for Virginians with disabilities is to be increased. The *Comprehensive Cross-Governmental Strategic Plan* acknowledges this critical link, and the SILC goals demonstrate a coordinated effort to work toward positive solutions and outcomes.

CILs have also been successful in developing relationships locally and statewide with staff of **public housing agencies (PHAs)** and other housing officials, educating them on the housing needs and preferences of people with disabilities. The impressive response of PHAs in Virginia to HUD's Notice of Funding Availability (NOFA) for “Housing Choice” Vouchers for non-elderly people with disabilities (Category I) and additional (Category II) vouchers to enable non-elderly households with disabilities to transition from nursing homes and other health care institutions into the community was a direct result of the CILs' advocacy and their collaboration with the Virginia Housing Development Authority (VHDA) and the MFP demonstration project. On October 1, 2010, HUD announced Category I voucher awards, and Virginia received 463 vouchers, the nation's third largest state total. Unfortunately, Virginia did not receive an allocation of Category II vouchers.

In 2009, the Virginia General Assembly (2009 *Appropriations Act*, Item 315.Z) directed the Department of Behavioral Health and Developmental Services (DBHDS), in conjunction with VHDA, the Department of Housing and Community Development (DHCD), the Virginia Association of Community Services Boards (VACSB), the Arc of Virginia, and the Virginia Network of Private Providers (VNPP), to conduct a study and “report on investment models and best practices for the development of affordable and accessible community-based housing for persons with intellectual and related developmental disabilities.” While not a mandated partner in this study, the Virginia Board for People with Disabilities (VBPD) was invited to join the study group and was an active participant in its work. The study’s recommendations (www.dbhds.virginia.gov/documents/reports/omr-HousingReport-2009.pdf), which have helped guide DBHDS efforts to develop partnerships and create community living opportunities, recognize the need to:

1. Develop a state policy and plan to expand critically needed community housing options for people with intellectual and related developmental disabilities. Current efforts to develop community-based housing for individuals with intellectual and related developmental disabilities are fragmented. Housing options must be affordable, accessible and reflect Virginia’s “person-centered” vision for serving people with disabilities.
2. Prioritize, target, and align state agency investments of assistance with that strategic plan. State strategic investment priorities will help to organize and align federal, state, local, and private investment resources which can significantly increase the development of integrated community housing for individuals with intellectual and related developmental disabilities. The state agencies that should participate in the development of the investment priorities are: DBHDS, DHCD, VHDA, and DMAS. The leadership of state agencies is critical in supporting the development of local coalitions aimed at increasing affordable and accessible housing options. Further, Virginia’s disability services agencies must become fluent regarding Virginia’s federal housing resources and the prioritization of those resources.
3. Invest in the development of innovative housing and financing models that can effectively leverage affordable housing finance capital and private investor resources. Three related steps to this recommendation are:
 - Build the capacity and willingness of the housing development community to provide desired community housing options;
 - Establish program priorities for the federal housing resources allocated to Virginia, including any National Housing Trust Fund resources, which are aligned with state investment priorities for addressing the community housing needs of people with intellectual and related developmental disabilities; and
 - Direct the Virginia Housing Commission to study General Obligation bond use for housing in Virginia, including any Virginia specific legal concerns.

4. Establish a community living supplement program for room and board to support the choice of community housing. A supplement of this kind will help solidify Virginians' commitment to individuals who reject institutional living.
5. Convene a meeting of agency heads from DBHDS, VHDA, and DHCD to consider the adoption of and updated Memorandum of Understanding (MOU).
6. Establish a permanent state source for education and training to provide a resource for Community Services Boards (CSBs) and others to continually connect housing and the needs of people with intellectual and related developmental disabilities.
7. Direct the Disability Commission, through the state interagency Housing Expansion Task Force and in conjunction with the Housing Commission, to conduct an annual review of Virginia's implementation of these recommendations in future years.

As values shift toward community inclusion and full citizenship for people with disabilities, the focus on needed community housing grows. Individuals with disabilities desire control over decisions about where, how, and with whom they will live. They want decent, safe, affordable, and accessible housing as well as access to the services and supports that they need to live as independently as possible. Best practice models of housing choice and community integration for people with disabilities do not couple the two within a particular residential setting.

Conversations taking place today, in Virginia and nationally, emphasize the decoupling of housing and services in favor of a “**supportive housing**” model. The goal of this movement is to help people with disabilities control their own lives, become socially and economically productive, and have the opportunity to live in permanent, independent, affordable, and accessible housing. There are various iterations of the supportive housing model. All emphasize consumer choice and control over both housing and services in contrast to the “placement” approach in which professional assessments constitute the main basis for housing selection. The supportive housing approach leads to separation of housing from services, an emphasis on conventional, integrated, scattered-site housing to reduce stigma, and rights of tenancy under landlord/tenant laws.

On April 10, 2010, Governor Bob McDonnell issued *Executive Order No. 10* calling for a *Housing Policy Framework for the Commonwealth of Virginia* “to establish broad goals and policy direction related to housing policy and to coordinate a comprehensive and effective housing policy with other public policy areas and initiatives across multiple secretariats within the executive branch.” The executive order identified four guiding principles necessary for the housing policy framework:

1. Recognize the role of the housing industry as a critical economic development engine within the Commonwealth by streamlining regulations, ensuring robust finance and construction sectors, promoting the development of workforce housing, reducing commute times between home and work, and increasing residential access to transportation systems, while furthering public understanding of housing finance and economic literacy.

2. Promote sustainable and vibrant communities through measures that promote mixed use development, increase energy efficiency and use of cost-effective green building concepts, support the rehabilitation of substandard housing, clarify the role of community associations in common interest communities, and expand public-private cooperation in addressing affordable safe housing.
3. Ensure that a range of housing options can be provided to meet the housing needs of a dynamic and changing population, achieve proper balance between homeownership and rental options, promote a continuum of quality housing options for special needs populations, match existing subsidies with areas of housing need, and increase the emphasis on fair housing (eliminating barriers to housing).
4. Increase capacity to address the needs of homeless Virginians by focusing on the reduction of chronic homelessness, ensuring the continued viability of the safety net of shelters and services, and investing in transitional and permanent supportive housing.

Executive Order No. 10 was the first executive branch effort to craft a comprehensive, state-level housing policy framework for Virginia. The Governor’s Senior Economic Advisor, the Secretary of Commerce and Trade, the Director of the Department of Housing and Community Development, the Executive Director of the Virginia Housing Development Authority, and others were responsible for carrying out its provisions. A Housing Policy Initiative Work Group and Advisory Committee representing diverse groups of stakeholders and constituents was established. The work group started by building on efforts several years ago by the Virginia Housing Commission. Results of this initiative included:

- Creation of the Virginia Foreclosure Task Force to provide timely response to emerging issues related to foreclosure and housing market recovery;
- An initial action plan to increase state capacity to address the needs of homeless Virginians; and
- Fourteen policy recommendations addressing the need to streamline regulations, better link housing with jobs and transportation, promote sustainable communities, and ensure the provision of a range of housing options for all Virginians.

Policy recommendations in the interim report (www.virginiahousingpolicy.com) solidify continued commitment to cross-secretariat coordination. Specific recommendations of note are the need for: (1) better linkage of housing, transportation, and land use planning and use of the **Transportation and Housing Alliance Toolkit** (www.tjpd.org/housing/thatookit.asp) by localities as a best practice, (2) the need to maintain and enhance administrative structures that support interagency and inter-secretariat collaboration in addressing special housing needs, (3) a continuum of quality housing options for special needs populations consistent with the U.S. Supreme Court’s 1999 *Olmstead* decision, and (4) establishment and promotion of state policy priorities for the incorporation of “visitability” and “**universal design**” elements in private housing development. On the latter the report further recommends that “once voluntary standards are adopted, charge state agencies with identifying specific means for promoting their

use through development of voluntary program incentives, provision of technical assistance, and public-private partnerships.”

Universal design refers to items or home features that are usable by most people regardless of their level of ability or disability. Many accessible and adaptive features are universally usable. For example, round doorknobs are not usable by people with limited use of their hands, but lever handles are usable by almost everyone, including people who have no hands. Universal design addresses the scope of accessibility and promotes making all elements and spaces accessible to and usable by all people to the greatest extent possible.

There are currently no national or state universal design standards that interface consistently with accessibility amenities in housing. The **Center for Universal Design** (www.ncsu.edu/www/ncsu/design/sod5/cud/index.htm) is a national information, technical assistance, and research center that evaluates, develops, and promotes accessible and universal design in housing, commercial, and public facilities, outdoor environments, and products. The center’s mission is to improve environments and products through design innovation, research, education, and design assistance.

Two additional key initiatives have influenced the availability of accessible housing. During its 2011 session, the Virginia General Assembly voted to increase the **Livable Home Tax Credit** from \$2,000 to \$5,000 for new homes and retrofitting of current homes that meet specific visitability and universal design requirements. Additional information on this tax credit program appears in the cost and payment section of this chapter.

Complementing the tax credit, the Virginia **EasyLiving Home** certification program (www.elhomes.org), established through the work of a coalition of public and private organizations, encourages the inclusion of key features that make a home cost effective, accessible, and convenient for everyone. This voluntary certification specifies criteria in everyday construction that builders can incorporate into new homes to make them welcoming to residents and their friends, family, and visitors, regardless of age, size, or physical ability.

Multiple governmental and private nonprofit and for-profit entities, including but not limited to the Virginia Housing Development Authority (VHDA) and the state Department of Housing and Community Development (DHCD) are involved in funding, developing, and providing community housing and related services. Together, DHCD and VHDA provide the “bricks and mortar” of access to affordable housing in Virginia. They administer a range of federal grant funding and tax incentives for housing and community development projects and programs. Brief introductions to several key initiatives and agencies appear below.

The Virginia **Department of Housing and Community Development (DHCD)**, www.dhcd.virginia.gov) works in partnership with local governments, state and federal agencies, nonprofit groups, and others to make Virginia’s communities safe, affordable, and prosperous places in which to live, work, and do business. Each year, DHCD invests more than \$100 million in housing and community development projects throughout Virginia. The majority of

these projects are designed to help persons with low to moderate incomes and are explained in greater detail later in this chapter. In addition, DHCD works to ensure safe buildings and homes by administering Virginia's building and fire codes as well as by training and certifying the state's building officials. It also administers the Livable Home Tax Credit mentioned above.

The **Virginia Housing Development Authority (VHDA)**, www.vhda.com) is the state's mortgage finance agency. Created in 1972 by the Virginia General Assembly, the VHDA's mission is to "help low- and moderate-income Virginians attain quality, affordable housing." As an independent public authority, VHDA receives no state appropriations for its operations and is fully self-supporting from revenues generated by its programs. VHDA has a Disabilities Housing Solutions Group, comprised of representatives of housing organizations actively engaged in developing affordable, accessible housing, that seeks workable, cost-effective means for using available public resources to better serve the needs of people with disabilities.

Several VHDA administered programs have particular significance for people with disabilities. **Low-Income Housing Tax Credits** support the development of affordable rental housing. VHDA also administers the **Housing Choice Vouchers** mentioned earlier on behalf of localities that either lack the capacity or do not wish to administer them directly. VHDA further provides mortgage financing for developers of affordable, accessible, and safe-housing options as well as offers flexible mortgage financing for the purchase of homes by individuals with low and moderate incomes. These programs increase the inventory of accessible, affordable housing and expand opportunities and choices for persons with disabilities to live independently. In some instances, people with disabilities who are able to find housing through a Housing Choice Voucher, but need and are eligible for other services and supports to live in the community, can work with their service provider to develop the "wrap-around services" they need to stay in the community.

Additional options for persons with disabilities to live in the community are provided through group homes and sponsored residential placements licensed by the **Department of Behavioral Health and Developmental Services (DBHDS)**, assisted living facilities (ALFs) licensed by the **Department of Social Services (DSS)**, and adult foster care, an optional service provided in coordination with local departments of social services. These are described more fully later in this chapter. Nursing facilities and other institutional settings are covered in the Institutional Services chapter of this report.

B. Eligibility for Community Housing Services and Programs

Department of Housing and Community Development (DHCD): The majority of projects funded by DHCD are designed to help persons with low to moderate incomes through an array of housing and community development projects and programs. Individual programs address preservation of housing stock as well as housing for targeted groups such as the homeless and persons diagnosed with HIV/AIDS, first-time home buyers, and others. Eligibility requirements are complex and vary among projects and programs, making it impossible to cover them

adequately within the limited framework of this assessment. Detailed information can be obtained at www.dhcd.virginia.gov or by contacting the department directly.

Virginia Housing Development Authority (VHDA): Educational programs and financial services offered by VHDA target individual home buyers or renters as well as developers and builders of a wide range of housing options. As with DHCD above, programs addressing the needs of individuals with low to moderate incomes, such as the Housing Choice Voucher and home loans, have income and affordability restrictions. Programs for developers and builders may require the building of a certain number of affordable housing units for funded projects. Complete information on current eligibility requirements for each of these problems can best be obtained at www.vhda.com or by contacting the authority directly.

Department of Social Services (DSS): Although persons with intellectual disabilities or other developmental disabilities may reside in **assisted living facilities (ALFs)** licensed by DSS, persons with mental illness are typically their primary residents. Local departments of social services determine eligibility for admittance using the **Uniform Assessment Instrument (UAI)**, www.cdaaa.org/images/UAI.pdf). The UAI gathers information to assess an individual's care needs and eligibility for planning and monitoring care across multiple agencies and services. In addition to its use by local departments of social services, it has been used by local departments of health, Area Agencies on Aging (AAAs), the Department of Rehabilitative Services (DRS), Medicaid funded long-term care service providers, and Medicaid nursing facility preadmission screening teams since July 1994.

Adult foster care (AFC) is a community-based contractual arrangement, authorized by the *Code of Virginia* (63.2-1601 and 63.2-800), involving DSS, a local department of social services, an approved service provider, and an individual intending to utilize AFC services. No more than three individuals may receive AFC services at one time in the home of an approved provider, regardless of whether those services are funded privately or through an Auxiliary Grant described below. To provide care for more than three individuals requires licensure by DSS as an assisted living facility.

DSS Auxiliary Grants are a source of additional income for recipients of Supplemental Security Income (SSI) benefits or for those who would qualify for SSI benefits according to the criteria below except for "having income in excess of set limits." Recipients must reside in an assisted living facility (ALF) licensed by DSS or in an adult foster care home approved by local departments of social services. Not all ALFs, however, accept Auxiliary Grant recipients.

Eligibility for Auxiliary Grant benefits is determined by the department of social services in the Virginia city or county where the individual last lived outside of an institution or an adult foster care home. Any records or statements can be used to determine residency. If residency cannot be determined or if the individual is from out-of-state, residency is based on where the individual is living at the time of application. To be eligible, an individual must:

- ✓ Be blind, have a disability, or be age 65 or older;

- ✓ Reside in a licensed assisted living facility or approved adult foster care home;
- ✓ Be a citizen of the United States or an alien who meets specified criteria;
- ✓ Have a countable income less than the total of the Auxiliary Grant rate approved for the ALF plus the personal needs allowance;
- ✓ Have non exempted resources less than \$2,000 for one person or \$3,000 for a couple; and
- ✓ Have been assessed and determined to need assisted living facility care or adult foster care placement.

According to the DSS *Fiscal Year 2010 Adult Services Program Report*, which summarizes data from the Adult Services and Adult Protective Services (ASAPS) case management system, Auxiliary Grants were received by 5,078 residents of assisted living facilities and 26 residents of adult foster care in state fiscal year (SFY) 2010. Of these, 1,966 were classified as “aged,” 28 were blind, and 3,110 had a disability.

Department of Behavioral Health and Developmental Services (DBHDS): As described in earlier chapters of this assessment, local **Community Services Boards (CSBs)** are the single point of entry in Virginia for all publicly funded services for persons with intellectual disabilities, including **residential services** such as placement in a DBHDS licensed group home. While there are some individuals who reside in group homes whose services are funded through state General Fund dollars that flow through CSBs, the Medicaid Home and Community Based Services Intellectual Disability (ID) Waiver is the primary source of funding for residential placement of people with intellectual disabilities in DBHDS licensed group homes.

Eligibility for residential supports requires that a person have a diagnosis of intellectual disability. The CSB then determines and documents that the person’s functional needs can be met by, and are appropriate for, group home placement and that the individual chooses to receive services through the ID Waiver rather than receive institutional services. The appropriate level of residential supports is based on each person’s needs and his or her natural supports, and under the ID Waiver, residential supports and services may also be delivered to an individual in his or her home, if appropriate, rather than in a group home.

It is important to note that similar support for congregate residential services is not available through the Individual and Family Developmental Disabilities (DD) Waiver; however, the DD Waiver does provide support for individuals residing in their own home or apartment and does allow for shared residences that are not considered congregate. More information on Home and Community Based Waivers can be found in the Medicaid chapter of this assessment.

C. Access to and Delivery of Community Housing Services and Programs

Department of Housing and Community Development (DHCD): Funding and services provided by DHCD are channeled through state and local governmental agencies, nonprofits, and other intermediaries who provide direct services for consumers. DHCD is not a direct service

provider to individuals with disabilities. For access to DHCD funding, organizations respond to Requests for Proposals or submit grant applications in accordance with program requirements and established deadlines. Depending on the funding opportunity, awards are made either competitively or on a first-come, first-served basis. Eligibility and application details for funding opportunities may be obtained from the DHCD website or by contacting the agency directly.

Virginia Housing and Development Authority (VHDA): Recipients of VHDA educational and financial services include individuals and families, state and local agencies, nonprofit organizations, and commercial builders and developers. Initial inquiries can be made through the VHDA website or by contacting VHDA directly. Beyond that, access and delivery procedures vary widely between programs and are too complex and numerous to detail in this assessment.

Housing Choice Vouchers, funded by the U.S. Department of Housing and Urban Development (HUD), are available through a network of 41 public housing agencies (PHAs) acting directly on behalf of HUD and 34 additional local agencies overseen by VHDA. A complete listing of these agencies, which administer the vouchers and determine eligibility for them taking into account family size and annual gross income, is available on the VHDA website.

Voucher funding is limited and insufficient to provide rental assistance for all who request them. As a result, housing agencies maintain waiting lists of eligible applicants. As of November 15, 2010, VHDA reported 6,600 applicants on waiting lists for agencies that it oversees, and that all 34 of those agencies had closed their waiting lists to new applicants.

When a voucher becomes available and is issued to an individual or family, the voucher holder must find a rental unit and a willing landlord. The unit must be inspected by the agency administering the voucher, and the rent requested must be reasonable for the market area. The housing assistance payment authorized by the voucher is paid by VHDA directly to the landlord, and the voucher holder pays the difference between the actual rent charged by the landlord and the amount subsidized by the voucher.

In April 2010, HUD published a Notice of Funding Availability (NOFA) for approximately \$40 million for approximately 5,300 Housing Choice Vouchers for nonelderly people with disabilities. This national NOFA represented one of the first collaborations between HUD and the U.S. Department of Health and Human Services as a part of President Obama's "Year of Community Living" and included two categories of vouchers. Category I vouchers may be used by nonelderly individuals with disabilities and their families to access affordable housing in a community that adequately meets their needs. Up to 1,000 Category II vouchers specifically target nonelderly individuals with disabilities currently living in nursing homes and other health care institutions to allow them to move into the community.

As mentioned in this chapter's introduction, Centers for Independent Living (CILs) worked closely with PHAs, encouraging them to apply for the vouchers. In October 2010, HUD awarded 463 Category I vouchers to six Virginia PHAs, as detailed below.

HUD CATEGORY I HOUSING CHOICE VOUCHER AWARDS, OCTOBER 2010

Public Housing Agency	Funding	Vouchers
Harrisonburg Redevelopment and Housing Authority	\$557,820	100
Newport News Redevelopment and Housing Authority	\$371,022	50
Norfolk Redevelopment and Housing Authority	\$1,192,986	150
Portsmouth Redevelopment and Housing Authority	\$819,903	93
Prince William County, Office of Housing and Community Development	\$840,882	70
TOTAL	\$3,782,613	463

The federal *Quality Housing and Work Responsibilities Act* of 1998 (QHWRA) established a requirement that public housing agencies maintain a comprehensive planning document known as a **Public Housing Agency (PHA) Plan**. The *Priced Out in 2006* report cited earlier notes that, in addition to new requirements for the PHAs such as the creation of these plans, this statute "gave PHAs more flexibility and control over how federal public housing and Section 8 Housing Choice Voucher programs are used in their communities."

A PHA Plan, produced in consultation with a Resident Advisory Board, outlines the policies, programs, and strategies that the public housing agency will implement in order to meet local housing needs. As their names suggest, the two parts of this plan, the Five-Year Plan and the Annual Plan, are updated every fifth year and every year, respectively. The PHA Plan describes the agency's overall mission for serving families with low and very low incomes and the activities that will be undertaken to meet their needs. It should also be consistent with the local jurisdiction's **Consolidated Plan** (ConPlan). Both plans include a statement of the housing needs of families with low and very low incomes and describe how the PHA's resources, specifically federal public housing funds and the Housing Choice Voucher program, will be used to meet those needs. For example, through its PHA Plan, local housing officials could decide to direct more Housing Choice Vouchers to people with disabilities receiving Supplemental Security Income (SSI) benefits.

In 2004, with support from the Virginia Board for People with Disabilities, the Virginia Housing Development Authority (VHDA) created **Access Virginia** (www.accessva.org), a website with a comprehensive collection of information for locating accessible apartments and learning more about accessibility requirements and universal design principles. This website was a positive step forward in helping Virginians investigate and obtain affordable, accessible housing; however, to reach its potential and maximize its benefits, it is critical that its contents be kept current. To meet this need, VHDA partnered with Socialserv.com, a nonprofit organization dedicated to helping people access affordable housing and supportive services by developing solutions that utilize leading edge technology. The original Access Virginia search engine was

replaced with a link from its website to VirginiaHousingSearch.com. Socialserv.com's staff ensures that listings at this site are up-to-date and accurate, conducts housing searches for tenants, and helps owners/landlords input listings and update property information.

Department of Social Services (DSS): Following determination of eligibility and level of care needed by their local department of social services, an individual with a disability typically works with his or her case manager to select a DSS licensed **assisted living facility (ALF)**. Then, at admission, the individual receives a service agreement and a preliminary service plan based on results determined through the **Uniform Assessment Instrument (UAI)** and other relevant information. The admissions director or another appropriate employee of the ALF reviews the UAI with the individual and explains how the facility can meet his or her needs through the service plan. Standards allow up to 45 days for completion of a final service plan so that the facility can obtain a more accurate picture of the needs and capabilities of the resident. This is helpful for individuals who may be in some degree of crisis at entry or need time to adjust to the new residence.

There were 549 licensed ALFs with a licensed bed capacity of 31,275 in Virginia as of June 2010 according to the *Fiscal Year 2010 Adult Services Program Report*. These counts, however, are fluid and can change monthly. Just over 300 of the licensed ALFs accepted individuals with **Auxiliary Grants**. Some may accept only one or two residents with an Auxiliary Grant, while in other facilities nearly all of the residents may receive one.

There has been a consistent decline in Auxiliary Grant caseloads at local departments of social services for the past ten years. In 2009, three-quarters of the 78 local departments of social services with declines in their caseloads during state fiscal years (SFYs) 2007 and 2008 responded to a survey that identified the three top reasons for this decline: ALF providers are unable to accept Auxiliary Grant recipients because the grant rate is insufficient for them to provide for recipients' required needs, the needs of Auxiliary Grant recipients exceed ALF levels of care, or individuals choose to remain at home and utilize home-based services, Medicaid Home and Community Based Services (HCBS) Waivers, or case management by Community Services Boards (CSBs).

In addition, due to current DSS licensure requirements and Medicaid HCBS Waiver regulations, very few people with intellectual or developmental disabilities are being served in assisted living settings. Those facilities face the same challenges as group homes in providing small quality residential settings and will likewise require higher provider rates or supplemental funding assistance to become a viable community housing alternative for that population.

Virginia state agencies, auxiliary grant recipients, and advocates have expressed a desire to pursue portability of the Auxiliary Grant and additional funding structures that could efficiently and effectively support an array of quality supportive housing alternatives. Progress has been stymied by concerns related to Maintenance of Effort (MOE) requirements ensuring that federal cost of living adjustments are passed along to individuals receiving Supplemental Security Income (SSI) benefits. Efforts to test the feasibilities of alternatives to current SSI and MOE pass-along provisions, which would enhance and be complementary to community integration and Money Follows the Person initiatives, are worthy of continued exploration.

Adult foster care (AFC) is an optional service. Local departments of social services are responsible for approving AFC homes in which their placements are made, and they can only approve AFC homes in which they intend to make placements. Individuals who have their own resources may reside in an approved AFC home if they meet the same assessment criteria as an individual receiving an Auxiliary Grant and if the local department of social services board has approved privately paid services at an AFC in that locality. Services by approved AFC providers are bound by standards in the DSS Adult Services Manual (22 VAC 40-771). Currently, 28 local departments of social services have been authorized by their boards to offer AFC services, and there are 58 AFC providers in Virginia serving 67 adults.

Sponsored residential homes, described below, and AFC homes provide a similar housing choice, however, while AFC is an approved setting for services under the Medicaid HCBS Intellectual Disability (ID) Waiver, restrictions in some local social services jurisdictions have made it difficult to serve ID Waiver recipients in AFC homes. In addition, licensing regulations by the Department of Behavioral Health and Developmental Services (DBHDS) prohibit sponsored residential home providers from being dually approved as AFC providers.

Department of Behavioral Health and Developmental Services (DBHDS): After an individual has been determined to be eligible for the Medicaid Home and Community Based Services (HCBS) Intellectual Disability (ID) Waiver and has selected community rather than institutional **residential services** option, his or her Community Services Board (CSB) case manager submits the required enrollment information to the DBHDS Office of Developmental Services (ODS). If no ID Waiver “slot” is available to the CSB, the individual’s name is placed on a waiting list until a slot becomes available. The CSB case manager is responsible for notifying the individual or family of placement on the ID Waiver Waiting List in writing within ten days of notification by ODS and must also provide notification of appeal rights and processes. Once an individual receives an ID Waiver slot, the individual can choose a residential services provider. Detailed information on ID Waiver Waiting List policies and procedures are found in the Community Supports chapter of this assessment.

DBHDS tracks the “static capacity” for ID residential services by level of service. Static capacity refers to the number of beds for which a facility is licensed and staffed or the number for which it is contracted during the contract period. The table below shows that, from state fiscal year (SFY) 2008 to SFY 2009, the static capacity of ID residential beds provided or contracted by CSBs increased by five.

CSB STATIC CAPACITY FOR INTELLECTUAL DISABILITY RESIDENTIAL SERVICES

Type of Residence	Number of Beds		Amount of Change
	SFY 2008	SFY 2010	
Supervised	465	467	+2
Intensive	779	794	+15
Highly Intensive	145	133	-12
TOTAL	1,389	1,394	+5

Sources: SFY 2008: Department of Behavioral Health and Developmental Services’ (DBHDS) staff. SFY 2009: DBHDS’ *2010 Overview of Community Services Delivery in Virginia*.

There are providers of ID residential services not represented in the table above because they are private providers under the ID Waiver and are not required to have a contract with a CSB. DBHDS reports that there were 962 group homes and 5,231 individuals residing in small community settings with one to 15 residents in 2009.

D. Available Community Housing Services and Programs

This section addresses both the specific types of housing options available to individuals with developmental disabilities and the programs which assist them in obtaining and maintaining housing. Each of the residential environments described differs with regard to housing structure, ownership, management, and operating costs. As a result, each requires a different approach to development and funding. The information in this chapter focuses on housing options that enable individuals to reside in communities with their families and friends and to avoid more-structured, restrictive “institutional” environments. Intermediate care facilities (ICFs) and nursing facilities, which are the principal kinds of highly intensive housing for people with disabilities in Virginia, are described in the Institutional Services chapter of this assessment.

Department of Housing and Community Development (DHCD): The following programs target Virginians with low to moderate incomes in general and, in some cases, individuals with disabilities in particular. Regardless of their emphasis, collectively these programs play a significant role in making safe, affordable, accessible housing available to persons with disabilities. Additional information on the programs described below can be found at the DHCD website or by contacting DHCD directly.

Housing Opportunities for Persons with AIDS (HOPWA) funding from the U.S. Department of Housing and Urban Development (HUD) supports the acquisition, rehabilitation, new construction, leasing, and operation of housing facilities for persons with low incomes who have been diagnosed with HIV/AIDS and their families. It also pays for rental and mortgage assistance, utility payment assistance, housing information, resource identification, technical assistance, and supportive services. HOPWA funds are distributed to local government housing agencies, public housing authorities, and health and human service agencies which, in turn, provide direct services for individuals and families who have applied through and been found eligible by local AIDS services organizations that coordinate service delivery. In state fiscal year (SFY) 2011, DHCD awarded \$700,000 in HOPWA funds for proposals selected through a competitive application process. Individual awards ranged from approximately \$45,000 to \$135,000.

The DHCD **Weatherization** program supplies funds to reduce heating and cooling costs for low-income families to ensure their health and safety. Households whose members include children, the elderly, and persons with disabilities are especially targeted. Services are delivered through a statewide network of community-based organizations that screen for eligibility, conduct energy audits, and install energy efficient measures in the home.

Individuals at imminent risk of homelessness caused by a crisis situation can receive temporary rental and mortgage assistance through the **Homeless Intervention Program (HIP)**. Individuals and families who are already homeless can receive assistance with security deposits and temporary rent payments to secure housing. Applications are submitted to local HIP administrators who determine eligibility and coordinate services.

Several programs address housing rehabilitation. **Federal Community Development Block Grants (CDBGs)** provide funding to eligible local governments for projects that address crucial community needs, such as housing, infrastructure, and economic development. Each project that utilizes CDBG funding must meet one or more national objectives. Funding through the **HOME Investment Partnership** is used to develop and rehabilitate transitional and permanent housing that serves low-income and special needs households and is available to government, nonprofit, and for-profit organizations. The **Emergency Home Repair Program** improves housing conditions and opportunities for Virginians with low and very low incomes. Repairs that will remove imminent health and safety hazards or eliminate barriers to habitability are covered by these funds. Assistance provided through local nonprofit agencies to housing occupants can include plumbing, structural, electrical, and roofing repairs as well as wheelchair ramps, accessible appliances, and other critical accommodations for people with disabilities.

The **HOMEownership Downpayment Assistance Program** makes purchasing a home more affordable for individuals and families with low to moderate incomes by assisting eligible borrowers with down payments and closing costs. The funds used for down payment and closing costs are administered through local partnerships with governmental entities, nonprofit housing service providers, and mortgage lenders across the Commonwealth. Currently, a statewide network of administrators is under contract with DHCD to offer housing counseling and intake services for prequalification screening for eligibility. The funds are provided on a first-come, first-served basis. The program structure promotes equitable access to the fund by entitlement and non-entitlement communities and is based on income and credit criteria.

Individuals lacking both the financial literacy skills and assets to achieve their goals of homeownership can obtain assistance through the **Virginia Individual Development Account (VIDA) Program**. This special savings program, typically offered through local governmental and nonprofit agencies, provides financial skills training, which includes assistance with the application process by local administrators. In addition, the VIDA program matches each dollar saved by the participant with two dollars. The combined savings can be used to purchase a home, start a business, or pursue postsecondary education.

The new **Neighborhood Stabilization Program** provides emergency assistance to state and local governments to acquire and redevelop foreclosed properties that might otherwise become sources of abandonment and blight within their communities. Funds can be used to purchase foreclosed or abandoned homes and to rehabilitate, resell, or redevelop these homes in order to stabilize neighborhoods and prevent a decline in neighboring homes' values. The July 2009 issue of *Opening Doors*, a housing publication for the disability community by the Technical Assistance Collaborative, Inc. (www.tacinc.org/downloads/OpenDoors_33.pdf),

details how this program can be used to create permanent supportive housing for people with disabilities.

Virginia Housing Development Authority (VHDA): Like those of the Department of Housing and Community Development (DHCD) described above, VHDA's activities target individuals and families with low to moderate incomes; however, VHDA may provide services for them both directly and through intermediaries. These include the **Access Virginia** website mentioned previously as well as outreach and training for developers and builders on *Americans with Disabilities Act* (ADA) accessibility requirements and the concepts of universal design, also described earlier. Other key VHDA programs are described below.

VHDA's **Homeownership Loan Programs** meet the changing needs of persons with low to moderate incomes by removing barriers to purchasing a home. VHDA home mortgage loans, usually originated by private lenders, are available for both first-time and repeat homeowners. Two traveling vans serve as **Mobile Mortgage Offices** to process and approve loans in the Southwest, Southside, and Eastern Shore regions of Virginia, areas not adequately served by traditional lenders. Since 1993, VHDA has also offered **Homeownership Education Classes** throughout the state to help Virginians learn the process of buying a home and maintaining it over the long-term. Classes are conducted in English, Spanish, and American Sign Language (ALS).

Multifamily Rental Loan Programs assist both large and small developers in purchasing, rehabilitating, and renovating apartments and other rental properties for Virginians with low to moderate incomes. **Federal Low-Income Tax Credits** are also available to encourage property owners to develop affordable rental housing.

VHDA's net revenues enable the **REACH Virginia** program to subsidize an array of targeted homeownership and rental funding programs. To qualify, Virginians must have incomes at or below 50 percent to 60 percent (varies by area) of the median income for the area in which they reside.

Previously known as "Certificates," "Section 8," or "Section 8 Existing," the "**Housing Choice**" **Voucher**, already mentioned several times in this chapter, is the latest name for the federal program that assists low-income families, the elderly, and individuals with disabilities with rental expenses. This "tenant-based" assistance is tied directly to the tenant and not to the property or structure. As noted in the access and delivery section above, 41 local Public Housing Agencies (PHAs) and 34 other local agencies overseen by VHDA receive funds from the U.S. Department of Housing and Urban Development (HUD) to administer the voucher program. Together, these agencies serve 112 Virginia counties and cities. As of January 2010, there were 47,833 vouchers authorized for use statewide, with VHDA administering approximately 20 percent (9,363) and the remainder administered by local PHAs.

Funds from VHDA's **Rental Unit Accessibility Modification** program are available to persons earning 80 percent or less of an area's median income. Grant funds are available on a

first-come, first-served basis, up to \$1,800 per dwelling unit, and can be used for any work needed to make the unit accessible for an individual with a disability. The application form for these funds is available on the VHDA website.

Granting Freedom is a partnership by VHDA, DHCD, Community Housing Partners, and other community groups that provides grant funds for modifications to make living spaces more accessible for Virginia servicemen and women who have sustained injuries in a combat theater of operations. Currently, more than \$1 million is available through this program to widen doorways and add ramps to make homes more wheelchair accessible, to install grab bars in bathrooms, or make other modifications that help eligible recipients feel more at home.

Department of Social Services (DSS): DSS Auxiliary Grants ensure that recipients of Supplemental Security Income (SSI) benefits, residing in a DSS licensed **assisted living facility (ALF)** or an approved adult foster care home, are able to maintain a standard of living that meets a basic level of care. Virginia regulations specify procedures for ALF licensure (22VAC 40-80-10 *et seq.*) and standards of care (22VAC 40-72-10 *et seq.*). The two main services covered by Auxiliary Grants are:

- Room and Board includes a furnished room in a building that meets all required fire safety codes; housekeeping services appropriate for the resident's needs; complete meals, snacks, and special diets, if necessary; and clean linens and towels as needed and at least once a week.
- Maintenance and Care services include minimal assistance with personal hygiene and grooming, including provision of personal supplies; administration of medications as required by licensing regulations; minimal assistance with the care of personal possessions and personal funds, if requested by the recipient and allowed by the facility; minimal assistance with telephones and correspondence; securing health care and transportation when needed; making appointments and arranging transportation; provision of social and recreational activities as required by licensing regulations; and general supervision for safety.

In addition to these basic services provided by an ALF or adult foster care home, Auxiliary Grants provide a personal needs allowance to the recipient. This allowance is used to cover medical expenditures such as copayments, prescriptions not covered by Medicaid, dental care, eyeglasses, and nonprescription over-the-counter medications; local and long-distance telephone service; personal transportation, clothing, toiletries, and other personal expenditures; and other needs outside of what are offered by the ALF or adult foster care provider. Regulations prohibit use of the allowance funds for recreational activities, administration of accounts, debts owed to the ALF for basic services, or laundry charges of more than \$10 per month.

Room, board, supervision, personal care, and other special services are provided to individuals in approved **adult foster care** homes. Policies relating to service delivery can be found in the 2011 DSS *Manual for the Provision of Adult Foster Care Services*

(www.dss.virginia.gov/files/division/dfs/as/as_intro_page/manuals/adult_fc/adultfostercareguide_1_2010.pdf).

Department of Behavioral Health and Developmental Services (DBHDS): DBHDS regulations (12 VAC 35-105-305 *et seq.*) describe **residential services** as a category of service providing 24-hour care in conjunction with treatment or training programs in a setting other than a hospital. Living arrangements vary from highly structured and intensively supervised environments to settings that provide for relative independence, requiring a modest amount of staff support and monitoring. Examples include, but are not limited to, residential treatment, group homes, supervised living, residential crisis stabilization, community gero-psychiatric residential, community intermediate care facilities for persons with mental retardation (ICFs-MR), sponsored residential homes, medical and social detoxification, and substance abuse residential treatment for women and children.

Among the housing options for individuals with intellectual or developmental disabilities are the following, as described in the report of the General Assembly mandated housing study (2009 *Appropriations Act*, Item 315.Z) referenced in this chapter's introduction:

- **Group Homes:** In 2009, 62 percent of the recipients of Medicaid Home and Community Based Services (HCBS) Intellectual Disability (ID) Waiver services resided in DBHDS licensed group homes. There are a few state and federal programs available to help finance the development of new group homes. In particular, the federal Section 811 program provides both capital grants and ongoing operating subsidies to support group home development. The challenge is that small homes with four or fewer residents that conform to Virginia's and other states' model of community integration lack sufficient economies of scale to support ongoing feasibility at established provider rates. Consequently, there continues to be a predominance of larger homes. Resolution of this problem requires higher provider rates or supplemental funding assistance. Congregate housing costs are covered under the ID Waiver but not under the Individual and Family Developmental Disabilities (DD) Waiver.
- **Sponsored Residential Homes:** Called "host homes" in other states, this is a model of residential services in which a licensed provider contracts with a family, living in its own private residence, to share its family residence with up to two individuals with disabilities. In this setting, the family provides all of the supports that are prescribed in the individual's service plan and are subject to all of the regulations that apply to group homes. Sponsored residential homes are licensed as a congregate service, and therefore, not covered through the DD waiver.
- **Supervised Apartments:** Also called supportive in-home services, supervised apartments enable people with ID or DD to reside in mainstream housing. While Medicaid HCBS Waivers fund needed services and supports, there is no mechanism to provide assistance with shelter costs; therefore, housing providers are reliant on their ability to access scarce federal rent or operating subsidies in order to create new affordable supervised apartments.

More specific information on services covered under the ID and DD Waivers can be found in the Community Supports chapter of this assessment. Detailed information on public and private ICFs-MR can be found in the Institutional Services chapter.

E. Cost and Payment for Community Housing Services and Programs

Virginia and other states across the nation are pursuing a variety of cost-effective investment models to expand community housing choices for people with disabilities. A key element in successful efforts has been targeting state funds to fill critical funding gaps, stimulating investment of private capital to develop affordable housing. The size and nature of these funding gaps vary with the type of housing being developed; therefore, diverse funding strategies are needed to support different housing choices. These strategies were recognized in the report of the housing study recently called for by the General Assembly (2009 *Appropriations Act*, Item 315.Z):

“First, a number of states have appropriated funding for rent or operating assistance tied to specific newly created rental housing units—often a set-aside of units in rental housing receiving development subsidies through the federal Low-Income Housing Tax Credit (LIHTC) program. This has enabled state LIHTC administrative agencies to mandate set-asides of units in their LIHTC programs. Absent such state-funded assistance, many states, including Virginia, have provided incentives to developers in the competitive tax credit allocation process to encourage set-aside units for people with disabilities, but have not made such set-asides mandatory.

“Second, some states have created state rental voucher assistance programs for people with disabilities. Often assistance is targeted to Medicaid Waiver recipients to enable them to access affordable community housing without the multi-year wait time frequently necessary to participate in over-subscribed local Section 8 Housing Choice Voucher programs. State voucher assistance has expedited the use of Medicaid Waivers and facilitated the success of state Money Follows the Person initiatives. Absent such state funded assistance, it has been nearly impossible for Virginia to coordinate locally-managed federal Housing Choice Voucher waiting lists with state Medicaid Waiver waiting lists, thus making it extremely difficult to transition people from state institutions to community housing in a timely manner.”

Four state-level agencies and the U.S. Department of Housing and Urban Development (HUD) play key roles in developing and paying for community housing for people with disabilities in Virginia. Brief descriptions of their funding activities follow.

Department of Housing and Community Development (DHCD): Specific DHCD expenditures to provide services for individuals with disabilities are not available; however, in

state fiscal year 2010, federal funding for all DHCD programs providing services for individuals both with and without disabilities totaled \$71.3 million. Virginia provided \$11.2 million in additional funds for these programs.

As a result of action by the 2007 General Assembly, the **Livable Home Tax Credit** (www.dhcd.virginia.gov/HousingPreservationRehabilitation/Tax_credit_program.htm) mentioned in this chapter's introduction was expanded to include new construction and its administration was shifted from the Department of Taxation to DHCD. Using input from public comment forums held throughout Virginia, DHCD developed guidelines for the expanded credit that became effective on January 1, 2008. To be eligible for the tax credit, new homes must meet three key requirements: (1) have at least one zero-step entrance approached by an accessible route on a firm surface no steeper than a 1:12 slope proceeding from a driveway or public walkway, (2) have an accessible bathroom (can be a half-bath/powder room) on the same floor as the zero-step entrance, and (3) have doors with at least 32 inches of clear width and hallways/passageways of at least 36 inches of clear width to the accessible bathroom and eating area. The tax credit also applies to retrofitting of existing residential units to make them more accessible, regardless of whether an owner or resident has a disability requiring these visitability features and without income considerations. For new construction, the tax credit can be used by either the homebuilder or the home purchaser.

Virginia Housing Development Authority (VHDA): Specific expenditures by VHDA to provide services for individuals with disabilities are also not available. Funding for VHDA comes from federal sources, bond sales, and net revenues from its operations. It receives no state support.

Recipients of **Housing Choice Vouchers** are typically required to pay no more than 30 percent of their monthly rent, depending on the specific subsidy program. Federal funds distributed through VHDA are used by it and other local administrators to pay landlords directly for the balance of the contracted monthly rent.

Additional federal funds received by VHDA may be used to subsidize the cost of building affordable apartments by private developers, who can then charge lower monthly rents. As of October 31, 2010, the U.S. Department of Housing and Urban Development (HUD) classified 49.6 percent of the households served by VHDA as having a resident with disabilities.

Department of Social Services (DSS): State general funds constitute 80 percent of **Auxiliary Grants** to residents of DSS licensed **assisted living facilities (ALFs)** and **adult foster care** recipients. Localities must provide matching funds to make up the remaining 20 percent. DSS is responsible for dispersing state funds to local departments of social services, which then make payments directly to ALFs and adult foster care providers within their jurisdictions. The General Assembly sets the maximum rate for Auxiliary Grants and adjusts it periodically.

In addition to Virginia, 44 other states provide recipients of federal Supplemental Security Income (SSI) benefits with a variety of monetary supplements tied to various types of

residential settings that may serve persons with disabilities. Unlike some other states, Virginia's Auxiliary Grants are only available to residents of ALFs or adult foster care and do not provide supplemental funds for individuals living independently. As a result, the use of Auxiliary Grants, the only state-guaranteed housing assistance available to most Virginians with disabilities, is restricted to residential settings that are congregate and more institutional in nature.

Department of Behavioral Health and Developmental Services (DBHDS): Providers of Medicaid Home and Community Based Services (HCBS) Intellectual Disability (ID) Waiver services licensed by DBHDS are reimbursed by Medicaid for **residential services** provided that they are consistent with an individual's approved plan of care. Reimbursement rates are set by the Virginia Department of Medical Assistance Services (DMAS) with the approval of the Virginia General Assembly and are based on an hourly rate for an approved number of hours of service per month. Medicaid does not pay for room and board for community-based residential services. It reimburses only for actual services provided by residential staff according to the service recipient's Individualized Services Plan (ISP). Group home residents are typically assessed a client fee by their service provider. The client fee is a large percentage of the client's income, which in the majority of cases is limited to Supplemental Security Income (SSI) benefits.

U.S. Department of Housing and Urban Development (HUD): Every year, HUD offers community and faith-based organizations, local governments, and housing authorities across the nation the opportunity to compete for nearly \$2 billion in direct grants for housing-related projects. The following grants, categorized by program area, were awarded in Virginia between 2007 and 2010.

Section 202, Supportive Housing for the Elderly grants (www.hud.gov/offices/hsg/mfh/progdesc/eld202.cfm) to nonprofit organizations enable older individuals who meet income eligibility requirements to live independently. Funds cover capital expenditures for new construction or rehabilitation as well as rental assistance. Although Section 202 grants are competitive, the amount for each jurisdiction is determined by a "fair share" formula. In 2007, an 11-unit elderly housing complex in Woodstock received \$1.3 million for capital advances and \$118,500 in rent subsidies, and in 2010, \$5.3 million in capital advances and \$474,000 in rent subsidies were awarded for a 44-unit complex in Rocky Mount. Additional smaller awards brought Virginia's total for the period to \$9.2 million and \$1 million, respectively.

Section 811, Housing for Persons with Disabilities grants (www.hud.gov/offices/hsg/mfh/progdesc/disab811.cfm) to nonprofit organizations enable their target population to live independently by expanding the supply of affordable housing with supportive services. As for Section 202 grants, they pay for capital construction or rehabilitation and rental subsidies and are awarded competitively and distributed using a fair share formula. In 2010, a total of \$1.2 million in capital advances and \$108,000 in rent subsidies were awarded for a total of ten one-bedroom units, four in Danville and six in Fredericksburg, for persons with developmental disabilities.

Resident Opportunities and Self-Sufficiency grants (http://portal.hud.gov/hudportal/ HUD?src=/program_offices/public_indian_housing/programs/ph/ross) are awarded competitively to assist residents of public housing in becoming economically self-sufficient and to help the elderly and people with disabilities live independently. In 2007, a total of \$1.5 million was awarded to housing and redevelopment authorities and other agencies to provide public housing residents with education, job training, employment services, and homeownership counseling.

HOPE VI Revitalization of Public Housing grants (http://portal.hud.gov/hudportal/ HUD?src=/program_offices/public_indian_housing/programs/ph/hope6) are awarded to housing authorities to assist them in meeting capital costs associated with the replacement or major rehabilitation of severely distressed public housing complexes. In recent years, Congress has reduced annual funding for HOPE VI by more than 80 percent, from \$625 million in 1999 to \$120 million in 2009, and Virginia did not receive any grants in 2008 or 2009. Previously, the Danville Redevelopment and Housing Authority received a \$175,000 Mentoring Grant from this program in 2005.

Family Self-Sufficiency grants (http://portal.hud.gov/hudportal/ HUD?src=/program_offices/public_indian_housing/programs/hcv/fss) are awarded competitively to housing authorities for coordinators who help public housing residents with child care, job training, and job placement. The Virginia Housing Development Authority (VHDA) received a grant of \$192,000 for calendar year 2009.

Housing Counseling grants (www.hud.gov/offices/hsg/sfh/hcc/counseling.cfm) are awarded competitively to HUD-approved housing counseling agencies for free pre-purchase, post-purchase, default, and reverse mortgage counseling. Virginia organizations received \$2.4 million through this program in 2009.

Continuum of Care (CoC) grants (www.hud.gov/offices/cpd/homeless/programs/coc/) are awarded competitively to local partnerships of government agencies and nonprofit organizations that help homeless individuals and families find housing and supportive services. Virginia CoC programs received \$18.2 million in 2007, \$20 million in 2008, and \$20.8 million in 2009.

Fair-Housing Initiatives grants (http://portal.hud.gov/hudportal/ HUD?src=/program_offices/fair_housing_equal_opp/partners/FHIP/fhip) are competitively awarded to nonprofits for education and outreach activities promoting the federal *Fair Housing Act*. The Piedmont Housing Alliance in Charlottesville received \$62,212 in 2008 to continue its established, comprehensive initiative to inform the public about their rights and obligations under this statute.

HUD has stated that it is prioritizing initiatives that develop more livable and sustainable communities and build economic competitiveness by connecting housing with employment, quality schools, and transportation. Its new initiatives demonstrate a commitment to interagency

collaboration in policy development, programs, and funding to ensure better results for communities and better use of tax dollars. This new direction is encouraging; however, continued and strengthened engagement of the disability community is needed to ensure that people with disabilities are fully included and immersed in integrated community life.

F. Monitoring and Evaluation of Community Housing Services and Programs

Department of Housing and Community Development (DHCD): DHCD publishes a handbook containing the current *Virginia Residential and Landlord Tenant Act* (www.dhcd.virginia.gov/HomelessnessToHomeownership/PDFs/Landlord_Tenant_Handbook.pdf) which specifies the rights and responsibilities of tenants under a rental agreement. It also provides information on sources of legal assistance specializing in landlord and tenant issues. The **Virginia Office of Consumer Affairs** can also provide assistance on matters covered by this statute.

Virginia Housing Development Authority (VHDA): As an independent state public authority, VHDA is subject to oversight by the Governor and the General Assembly. The Governor appoints its eleven-member governing **Board of Commissioners**, which is required to submit an annual report to the Governor on its operating and financial status. VHDA annual financial statements are also subject to review by the state **Auditor of Public Accounts**.

Department of Social Services (DSS): The **DSS Division of Licensing Programs** has responsibility for protecting children and vulnerable adults in residential and daycare settings. It licenses assisted living facilities and adult daycare centers and has regulatory responsibilities covering family day homes, independent foster homes, child-placement agencies, and children's residential facilities. It also voluntarily registers family day homes that are not required to be licensed.

DSS Adult Protective Services (APS) investigates reports of abuse, neglect, and exploitation of incapacitated adults ages 18 and over and all adults ages 60 and over. Protective measures are initiated when warranted by the results of their investigations. **DSS Child Protective Services (CPS)** has equivalent responsibilities for children under age 18. Reports of abuse, neglect, and exploitation are directed to local departments of social services who conduct investigations and initiate protective measures. The goal of these protective services is to safeguard life, health, and property without loss of liberty. When this is not possible, assistance is provided with the least disruption of lifestyle, with full due process, and with protection and restoration of the person's liberty in the shortest possible time.

The *Code of Virginia* (63.2-1728) specifically requires DSS to establish a toll-free telephone line for complaints and to investigate all complaints received regarding the operations of assisted living facilities, adult daycare centers, and child welfare agencies, regardless of whether the program is subject to licensure. Those numbers are: Adult Protective Services, 888-

832-3858; Child Protective Services, 800-552-7096; and Division of Licensing Programs, 800-543-7545.

Investigations of licensing complaints may include onsite visits to inspect activities, services, records, and facilities and interviews with a facility's employees and agents and any persons within its custody or control. If a facility is found to be noncompliant, DSS must provide notice to the operator and may then take appropriate action as provided by law to ensure corrective action. The *Code of Virginia* (63.2-1808) details the rights of residents of assisted-living facilities, the responsibilities of their operators, and requirements for an annual review of residents rights.

APS investigations are confidential, and reports may be made anonymously. The investigation must include an in-person meeting with the alleged victim and contacts with others with knowledge of the individual or the circumstances, such as relatives, personal representatives, caregivers and facility staff. A disposition must be made within 45 days of the report. APS will only investigate if the individual is deemed to be "at-risk." If the individual has died or is no longer residing in or receiving services at the licensed facility or program, the at-risk criterion is not met.

Department of Behavioral Health and Developmental Services (DBHDS): The regulatory and oversight of responsibilities of DBHDS for public and private residential facilities and services that it licenses or funds are covered extensively in the monitoring and evaluation section of the Community Supports and Institutional Services chapters of this assessment. These chapters also include information on the **Office of the Inspector General (OIG) for Behavioral Health and Developmental Services**. Information on the DBHDS **Office of Human Rights**, including a specific listing of statutory rights, can be found in both the Community Supports chapter and in the Advocacy Information and Resources appendix.

Department of Professional and Occupational Regulation (DPOR): Public awareness and enforcement of the state's fair housing law is the responsibility of DPOR's **Virginia Fair Housing Office (VFHO)**, which serves as the investigative arm of Virginia's **Fair Housing Board (FHB)** and **Real Estate Board (REB)**. The FHB administers and enforces the fair housing law for most individuals and businesses, while the REB retains jurisdiction over real estate licensees and their employees. The FHB is also charged with establishing a fair housing certification program applying to non-licensed property managers, leasing consultants, and homeowners who are involved in selling or renting dwellings. Both boards meet at the DPOR offices in Richmond, and the public is welcome to attend their meetings.

The state's first fair housing law, enacted by the General Assembly in 1972, was initially similar to the fair housing provisions of the national *Civil Rights Act* of 1968; however, amendments over time have extended its coverage to protect additional classes of individuals making it broader than the federal law. Virginia's fair housing law prohibits discrimination on the basis of race, color, religion, national origin, sex, familial status, "handicap," and

“elderliness.” Elderliness, which refers to anyone who is age 55 or older, is not a covered protected class under the federal law.

Individuals who feel they have been discriminated against or that fair housing laws have been violated report their complaints directly to the VFHO. Its staff investigate the allegations by conducting interviews with the complainants, respondents, and relevant witnesses and by reviewing appropriate records and other documents.

Once the investigation is complete, a final report is completed that summarizes the evidence obtained. That report and the evidence are presented to the FHB or REB, whichever is appropriate, at its next regularly scheduled meeting. Following the FHB or REB’s review of the evidence, it can issue a “no reasonable cause” finding or a “reasonable cause” finding. If it finds no reasonable cause, both parties are notified in writing, and no further action is taken. If there is a finding of reasonable cause, the parties have 30 days to engage in conciliation attempts.

Conciliation is a voluntary process in which the parties attempt to come to a mutually acceptable agreement. If conciliation is successful and approved by the FHB or REB, the investigation is suspended. If one or both parties reject conciliation or they are unable to resolve the complaint through the conciliation process, a charge is issued and immediately referred to the state Office of the Attorney General for further action. Both parties involved are notified accordingly, in writing.

In fiscal year 2010, the VFHO investigated and closed 103 cases. Conciliation was successful in approximately 20 percent of these cases, resulting in awards to complainants of approximately \$41,000.

In addition to investigating and settling complaints, the VFHO conducts outreach and training on fair housing laws. These activities range from distribution of handouts to sophisticated interactive presentations by the VFHO staff to state and local officials, housing providers, and consumers. This training is offered free and is tailored to meet the specific needs of its recipients.

G. Community Housing Services and Programs Sources Referenced in This Chapter

Links to websites and online documents reflect their Internet addresses in March 2011. Some documents retrieved and utilized do not have a date of publication.

Websites:

Access Virginia:

www.accessva.org

National Low Income Housing Coalition:

www.nlihc.org

- Transportation and Housing Alliance Toolkit:
www.tjpd.org/housing/thatookit.asp
- U.S. Department of Housing and Urban Development:
<http://portal.hud.gov/portal/page/portal/HUD>
- U.S. Social Security Administration:
www.ssa.gov/policy/docs/statcomps/di_asr/2009/sect01.html#chart2
- Virginia Department for the Aging:
www.vda.virginia.gov
- Virginia Department of Behavioral Health and Developmental Services (DBHDS):
www.dbhds.virginia.gov
- Virginia Department of Housing and Community Development (DHCD):
www.dhcd.virginia.gov
- Virginia Department of Medical Assistance Services:
www.dmas.virginia.gov
- Virginia Department of Professional and Occupational Regulation:
www.dpor.virginia.gov/dporweb/dpormainwelcome.cfm
- Virginia Department of Social Services (DSS):
http://www.dss.virginia.gov/files/about/reports/adults/adult_services_annual/2010.pdf.
- Virginia Housing Development Authority (VHDA):
www.vhda.com
- Virginia Housing Policy:
www.virginiahousingpolicy.com
- Virginia Olmstead Initiative:
www.olmsteadva.com
- Virginia Statewide Independent Living Council (SILC):
www.vasilc.org
- Virginia Uniform Assessment Instrument:
www.cdaaa.org/images/UAI.pdf

Documents:

- Code of Virginia, 37.2-404 et seq. Authority for Establishment of Rules and Regulations for the Licensing of Providers of Mental Health, Mental Retardation and Substance Abuse Services.* Retrieved from: <http://lis.virginia.gov/cgi-bin/legp604.exe?000+cod+37.2-404>.
- Medicaid Waiver Technical Assistance Center. (June 2007). *Medicaid Waiver Services Guide*. Endependence Center, Norfolk, Virginia.
- O'Hara, Ann, and Cooper, Emily. (2009). *Priced Out in 2008: The Housing Crisis for People with Disabilities*. Technical Assistance Collaborative, Inc (TAC), Boston, Massachusetts. Retrieved from: www.tacinc.org/downloads/Priced%20Out%202008.pdf.
- O'Hara, Ann, and Cooper, Emily. (October 2005). *Priced Out in 2004: The Escalating Housing Crisis Affecting People with Disabilities. Opening Doors: A Housing Publication for the Disability Community*, No. 27. Technical Assistance Collaborative, Inc., (TAC) and

- Consortium for Citizens with Disabilities Housing Task Force, Boston, Massachusetts. Retrieved from: www.c-c-d.org/task_forces/housing/od-Oct05.htm.
- Pelletiere, Danilo; Wardrip, Keith; and Crowley, Sheila. (2008). *Out of Reach 2007-2008*. National Low Income Housing Coalition, Washington, D.C. Retrieved from: www.nlihc.org/oor/oor2008/.
- Supreme Court of the United States, (98-536) 527 U.S. 581 138 F.3d 893. (1999). *Olmstead v. L.C.* Retrieved from: www.law.cornell.edu/supct/html/98-536.ZS.html.
- United States Census Bureau. (2010). *Virginia Census Data 2010*. Retrieved from: www.uscensus2010data.com/51-virginia-household-education-immigration-demographics.
- Virginia Community Integration Implementation Team and the Community Integration Advisory Commission. (2009). *Virginia's Comprehensive Cross-Governmental Strategic Plan: Update and 2009 Progress Report*. Retrieved from: www.olmsteadva.com.
- Virginia Department of Behavioral Health and Developmental Services. (2009). *Comprehensive State Plan, 2010–2016*. Retrieved from: www.dbhds.virginia.gov/documents/reports/opd-StatePlan2010thru2016.pdf.
- Department of Behavioral Health and Developmental Services. (2010). *Overview of Community Services Delivery*. Retrieved from: www.dbhds.virginia.gov/documents/OCC-CSB-Overview.pdf.
- Virginia Department of Behavioral Health and Developmental Services. (2009). *Report on Investment Models and Best Practices for the Development of Affordable and Accessible Community-Based Housing for Persons with Intellectual and Related Developmental Disabilities* (Item 315 Z) to the Governor and Chairs of the House Appropriations and Senate Finance Committees. Retrieved from: www.dbhds.virginia.gov/documents/reports/omr-HousingReport-2009.pdf.
- Virginia Department of Behavioral Health and Developmental Services. (2007) 12 VAC 105-305. *Rules and Regulations for the Licensing of Providers of Mental Health, Mental Retardation and Substance Abuse Services, Individual and Family Developmental Disabilities Waiver, and Brain Injury Residential Services Waiver*. Retrieved from: www.dbhds.virginia.gov/documents/ol-12VAC35-105feb2007final.pdf.
- Virginia Department of Housing and Community Development. (2010). *Virginia Landlord and Tenant Act*. Retrieved from: www.dhcd.virginia.gov/HomelessnessstoHomeownership/PDFs/Landlord_Tenant_Handbook.pdf.
- Virginia Department of Social Services. (2011). *Adult Foster Care Program Manual*. Retrieved from: www.dss.virginia.gov/files/division/dfs/as/as_intro_page/manuals/adult_fc/adultfostercareguide_1_2010.pdf.
- Virginia Department of Social Services. (2010). *Fiscal Year 2010 Adult Services Program Report*. Retrieved from: www.dss.virginia.gov/files/about/reports/adults/adult_services_annual/2010.pdf.
- Virginia Department of Social Services, 22 VAC 40-80-10 *et seq.* (2011). *General Procedures and Information for Licensure*. Retrieved from: www.dss.virginia.gov/files/division/licensing/alf/intro_page/code_regulations/regulations/035-05-017-09-eng.pdf.

Virginia Department of Social Services, 22 VAC 40-72-10 *et seq.* (2009). *Standards for Licensed Assisted Living Facilities*. Retrieved from: www.dss.virginia.gov/files/division/licensing/alf/intro_page/code_regulations/regulations/032-05-010-18.pdf.

Virginia Housing Policy Work Group and Advisory Committee. (November 18, 2010). *Housing Policy Framework for the Commonwealth of Virginia: Interim Report to the Governor*. Retrieved from: www.virginiahousingpolicy.com.

Virginia Statewide Independent Living Council. (2007). *State Plan for Independent Living (2008–10)*. Richmond, Virginia. Retrieved from: www.vasilc.org/downloads/SPIIL200810FINALAmendments092010.doc.