



January 31, 2018

Senate Committee on Public Benefits, Licensing, and State-Federal Relations
Senator Kapenga, Chair
State Capitol, Room 15 South
Madison, WI 53707

Assembly Committee on Public Benefit Reform
Representative Krug, Chair
State Capitol, Room 207 North
Madison, WI 53708

Dear Senator Kapenga, Representative Krug and members of the committees:

Thank you for the opportunity to provide comment on JR8 SB4. The Wisconsin Board for People with Developmental Disabilities' (BPDD) analysis of this bill concludes that people with disabilities would be disproportionately harmed.

38% of public housing households include a member who has a disability¹.

The bill requires Public Housing Authorities to assess whether an individual is able-bodied, whether they are unemployed or underemployed, create an employability plan, and conduct substance abuse screenings. Public Housing Authorities do not have the expertise to accurately assess residents in any of these areas. BPDD is concerned that people with disabilities—especially those with invisible disabilities—will be incorrectly assessed as able-bodied and subjected to additional scrutiny regarding employment and substance abuse.

This proposal invites litigation. Public housing does not require residents to disclose any disability; federal anti-discrimination laws as well as the Americans with Disabilities Act (ADA) protect individuals from being compelled to do so². Requiring a Public Housing Authority to assess whether someone is able-bodied also means that they must determine that the individual does not have a disability, without asking and individual's disability status.

Determining able-bodied status is subjective and is based on the perceived absence of disability. Public Housing Authorities do not have expertise in diagnostics, familiarity with health conditions and disabilities that can impact, and may not have any experience interacting with people with disabilities. BPDD is concerned that people with mental health conditions, epilepsy, autism, mild intellectual and developmental disabilities who are

¹ U.S. Department of Housing and Urban Development (HUD), Resident Characteristics Report as of December 31, 2017 (https://hudapps.hud.gov/public/picj2ee/Mtcsrcre?category=rcre_ttp&download=false&count=0).

² People with disabilities have suffered a long history of residential discrimination and exclusion. Discrimination is still common. The majority of discrimination complaints the Housing and Urban Development's Fair Housing Enforcement Office receives are from people with disabilities who feel they have been victims of housing discrimination. A 2005 HUD report found that the net measures of systemic discrimination against persons with disabilities are generally higher than the net measures of discrimination on the basis of race and ethnicity.

physically sound, intermittent or degenerative health conditions, and other disabilities that are not visible or immediately recognizable to an untrained layman could be assessed as able-bodied.

If a person with a disability is assessed as able-bodied, it is unclear how the individual could appeal or contest the Public Housing Authorities' assessment. Furthermore, it is unclear how a person with a disability would be able to prove their disability without disclosing disability status and/or health information they are legally protected from being required to disclose.

It is also unclear—once a person has been determined to be able-bodied—how quickly other steps—determining employment or underemployment status, employability plans, and substance abuse screening—would be imposed. Could all of these steps occur in the same meeting with the Public Housing Authority? If a person with a disability is incorrectly assumed to be able-bodied, could they be subjected to immediate questions about employment and subjected to drug screening?

BPDD is charged under the federal Developmental Disabilities Assistance and Bill of Rights Act with advocacy, capacity building, and systems change to improve self-determination, independence, productivity, and integration and inclusion in all facets of community life for people with developmental disabilities.

Our role is to seek continuous improvement across all systems—education, transportation, health care, employment, etc.—that touch the lives of people with disabilities. Our work requires us to have a long-term vision of public policy that not only sees current systems as they are, but how these systems could be made better for current and future generations of people with disabilities.

Thank you for your consideration,

A handwritten signature in cursive script that reads "Beth Swedeen".

Beth Swedeen, Executive Director
Wisconsin Board for People with Developmental Disabilities