
Regional Office Report on Disability Rights California's Current Advocacy: Cases and Projects

(previously called "Director of Litigation Report")

FALL 2008 - Work as of July 31, 2008 – Report No. 53

This report represents a summary of the work Disability Rights California's staff has reported from May 1, 2008 to July 31, 2008. Many thanks to those who provided the material to make this report possible.

ABUSE AND NEGLECT

Unnoticed Deaths of Two State Hospital Residents

The Investigations Unit has been investigating the death of two state hospital residents who were found dead in their beds several hours after the death occurred and despite facility policies of regular welfare checks. Both deaths indicate a failure to conduct the checks entirely or with sufficient thoroughness to establish whether the resident is even breathing and alive.

On March 18, 2008, H.J., a 54 year old resident of Napa State Hospital (NSH) in reported good health, was found dead in bed. His body was "in full rigor mortis" and was "cold to touch." This indicates that H.J. been dead for between three and five hours.

NSH policy requires staff observe residents at least twice every hour throughout the night "to ensure the safety and welfare" of residents. NSH staff records indicate that staff were reportedly regularly checking on H.J. throughout the night, with the apparent last observation at 5:30 a.m. when he was observed "asleep and breathing." This is incompatible with the condition of the body.

The cause of H.J.'s death remains unknown. H.J. had no known medical conditions that would have caused his sudden death. No autopsy was conducted. The county coroner declined to conduct an autopsy because H.J. was under the care of a physician. Coroners may decline to conduct an autopsy when the deceased has been seen by a physician in the 20 days prior to death.

NSH records allege that the coroner declined to conduct an autopsy because H.J. had an infectious blood condition. However, the coroner's office informed Disability Rights California investigators that they routinely conduct autopsies on individuals with contagious conditions, and that this was not a factor in their decision to not conduct an independent investigation.

At approximately 8:00 a.m. Sunday, March 30, 2008, L.R.'s body was found in his bed at Atascadero State Hospital (ASH) with a towel wrapped around his neck. L.R., a 37 year old long-term resident, had been strangled by another resident. His body was cool to touch, rigor mortis had set in. The responding doctor did not attempt resuscitation because it was apparent that it would be futile. According to media accounts, facility records indicate that staff were checking on L.R. every 20 minutes, consistent with facility policy. ASH has refused to provide Disability Rights California investigators with records pending the conclusion of the criminal proceedings.

Disability Rights California is working with the Department of Mental Health to establish a consistent department policy regarding resident welfare checks, including during sleeping hours. Disability Rights California will follow-up with the Department regarding the thoroughness of each facility's post mortem investigations and corrective action in these cases, including ensuring that staff conduct welfare checks as required to adequately establish the welfare of residents.

Abuse & Neglect Goals and Objectives: Goal 1, Obj. A
DRC Staff: Paul Duryea, Ricardo Jauregui, and Leslie Morrison.
Grant/Funding Source(s): PAIMI

BENEFITS

Client is Assessed for a New Wheelchair

J.R. is a Regional Center client with cerebral palsy. He has Medicare and Medi-Cal. After working for about a year at a toy store using a manual wheelchair,

J.R.'s doctor recommended that he obtain a power wheelchair that would allow him to be mobile for longer periods of time and help prevent future injuries.

J.R. obtained a power wheelchair. However, soon after receiving it, he had to take the wheelchair in for repairs due to battery problems. After several repairs, he realized that the chair was not appropriate because it could not keep up with his needs. J.R. contacted Disability Rights California for assistance. He wanted to know how to get a new wheelchair.

A Disability Rights California advocate contacted the durable medical equipment (DME) vendor who admitted it fitted J.R. for a chair that was appropriate for home use only. In other words, they had failed to follow the *Charpentier* process.

Under *Charpentier*, a dual eligible individual (a person who has both Medicare and Medi-Cal) first obtains prior approval for medical equipment and supplies from Medi-Cal by submitting a treatment authorization request (TAR). When approved, the provider delivers the equipment and bills Medicare. After Medicare pays (usually at a rate much lower than Medi-Cal's approved rate), Medi-Cal is electronically cross-billed for the 20% co-payment that represents the beneficiary's portion and pays that amount. The provider then applies to Medi-Cal for any difference between Medicare's and Medi-Cal's approved rates. If Medicare denies the request or fails to pay within ninety days of billing, the provider may seek reimbursement for the entire cost of the device from Medi-Cal. This process is important for dual eligibles because they are not limited to Medicare's medical necessity standard that focuses on home use only. Medi-Cal's medical necessity standard is much broader and allows payment of equipment that can be used in the community. Here, J.R. could have gotten a wheelchair that was appropriate for his needs outside the home rather than just appropriate in the home.

The advocate advised J.R. of his options, which included requesting a new chair. The advocate was able to help locate a vendor who suggested that J.R. obtain a mobility evaluation. J.R. was able to obtain a prescription from his doctor for a mobility evaluation and was fitted for a new wheelchair. The vendor has submitted a TAR to Medi-Cal. J.R. and the vendor are waiting for a response from Medi-Cal.

PABSS Issue team and Benefits: Goal 2, Obj. A
DRC Staff: Aleyda Toruno
Grant/Funding Source(s): PABSS

Client Obtains a Specialized Wheelchair after Disability Rights California Filed a Writ of Administrative Mandamus

J.A. is a Medi-Cal recipient who lives in a small rural community in the Southern California desert. J.A. is a person with quadriplegia who requires a wheelchair for mobility. Because of the rural nature of his family home, he needs a specialized wheelchair designed to go over rough terrain and through soft sand in order to complete normal activities of daily living.

A durable equipment vendor submitted a TAR to Medi-Cal requesting a Frontier X-5 power wheelchair. Medi-Cal agreed that J.A. needed a specialized wheelchair capable of negotiating a rural area but denied the Frontier X-5. Believing that the models offered by Medi-Cal were not adequate, J.A requested an administrative hearing.

The administrative law Judge (ALJ) determined that the Frontier X-5 was the only one capable of negotiating the rough sandy terrain in his rural home. However, the ALJ held that Medi-Cal had no obligation to take into consideration an individual's home environment in selecting a wheelchair, and that is obligated to provide only durable medical equipment (DME) that is "standard for the community at large." J.A. sought Disability Rights California's help.

Disability Rights California filed a Writ of Administrative Mandamus (Writ) challenging the ALJ's determination that a Medi-Cal recipient's individual living circumstance is not a relevant factor in determining the type of wheelchair that may be medically necessary, and challenging the denial of the Frontier X-5.

The scope of Medi-Cal services "may include diagnostic, preventative, corrective, and curative services and supplies...for conditions that cause suffering, endanger life, result in illness or infirmity, interfere with capacity for normal activity including employment, or for conditions which may develop into some significant handicap." Welf. & Inst. Code ' 14059. Medi-Cal covers Amedically necessary@ services, which is defined as services Areasonable and necessary to protect life, to prevent significant illness or to alleviate severe pain.@¹ Welf. & Inst. Code ' 14059.5.

¹ The medical necessity standard is different for children under 21 years of age and persons residing in nursing homes.

Medi-Cal covers durable medical equipment such as wheelchairs when medically necessary and prescribed by a doctor. Welf. & Inst. Code ' 14132(m); 22 Cal. Code Regs ' 51321. Durable medical equipment is equipment that serves a medical purpose and is appropriate for use in or out of the patient's home. 22 Cal. Code Regs ' 51160. Further, Medi-Cal must cover wheelchairs that "would help to alleviate the effects of the medical condition by restoring necessary human functions such as ... the ability to move about." *Blue v. Bonta* (2002) 99 Cal.App.4th 980, 989.

The decision to live in one's family home is not merely a lifestyle choice. Medi-Cal is obligated to consider various factors such as where the individual currently lives, the availability of family or other care providers and whether the individual may be required to move into an institutional setting if not able to live in his or her current residence. Living at home is the preferred medical outcome for those capable of living there with assistance. *Blue v. Bonta* (2002) 99 Cal.App.4th 980, 989.

After filing the Writ, Medi-Cal agreed to provide J.A. with a Frontier X-5.

Benefits Goals and Objectives: Goal 2, Obj. A
DRC Staff: Mike Kluk, Maria Iriarte
Grant/funding source: PAAT

Settlement Reached In Laguna Honda Class Action

(See Discrimination)

County Department of Public Health Agrees to Reinstate Primary Care Physician and Treatment Plan

Following J.B.'s formal complaint to the County's medical center regarding delays in medical treatment, County medical administration notified J.B. that J.B. was being "discharged" immediately from any further treatment from the medical facility. J.B.'s access to the primary care physician at the facility was terminated and all standing appointments for primary and specialty care were cancelled. J.B. contacted Disability Rights California for legal assistance in the timely reinstatement of a primary care physician and specialty care.

Disability Rights California filed a complaint with the County District Supervisor that the County was required to provide medical services to J.B. under California

Welfare and Institutions Code section 17000. Under section 17000, state law mandates that counties provide general relief and services to county residents, including those persons who are poor and those with disabilities, when no other source of support or financial relief is available. One purpose of the general relief statute is to require a county to provide medically necessary care. State courts have determined that medically necessary care is that level of medical service that does not lead to unnecessary suffering or endangerment of life and health. *See Alford v. County of San Diego* (App. 4 Dist. 2007) 59 Cal.Rptr.3d 596, 151 Cal. App.4th 16

In July 2008, Disability Rights California and J.B. meet with medical administrative staff for the County about the allegations made in the complaint. The meeting was scheduled following Disability Rights California's phone calls to and the filing of the complaint with the County District Supervisor. The County medical administration agreed to immediately reinstate J.B.'s treatment plan and assign a new primary care physician, with oversight by the medical center's chief physician.

Benefits Goals and Objectives: Goal 2, Obj. A
DRC Staff : Timothy Poe
Grant/Funding Source: PAIR

Disability Rights California Takes Legal Action to Secure Paramedical and other IHSS Services for Minor Client

Donna Bland v. John Wagner, Director California Department of Social Services; California Department of Social Services

Case No. 34-2008-0000005-CU-WM-GDS, Sacramento Superior Court, State of California, Judge Patrick Marlette

See previous DOL Report, Summer 2008 (Issue 52).

M. is an 18-month-old child with disabilities, including oxygen dependence, as a result of her premature birth. M. receives In-Home Supportive Services (IHSS), Regional Center services, and Early and Periodic Screening, Diagnosis, and Treatment Program (EPSDT) nursing services. Disability Rights California previously represented M. and was successful in securing a rehearing decision from the Department of Social Services that ordered that M.'s EPSDT services could not be considered alternative resources to the IHSS program. However, this

rehearing decision did not address all of the issues in the original hearing regarding M.'s need for increased hours of service.

As a result, on July 18, 2008, Disability Rights California filed a Petition for Writ of Administrative Mandate to review and overturn the decision of the Department of Social Services denying M. sufficient IHSS services, including, but not limited to, time for medication administration and accompaniment to medical appointments, her feeding needs related to her medical condition, and time for paramedical assessment, observation and monitoring related to her oxygen dependence.

In addition, Disability Rights California filed a Writ of Mandate seeking an order from the Court that the Department of Social Services establish and disseminate standards clarifying that in assessing the needs of children for IHSS, including personal care services and paramedical services, services should be authorized to the extent that, as a result of blindness or disability, the child requires more services than a healthy child would.

The proceedings on the writ cases are pending.

Benefits Goals and Objectives: Goal 2, Obj. A; Goal 3, Obj. A
DRC Staff: Maggie Roberts, Elizabeth Zirker, Kim Swain, and Elissa Gershon
Grant/Funding Sources: PADD, PAAT

Regional Center Assesses J.K.'s Need and Provides Nursing Respite Care Services per Individual Program Plan (IPP)

J.K. is a nineteen year old, non-ambulatory, non-verbal individual with developmental disabilities and mental retardation. He currently lives with his mother, a single parent with health problems, and is entirely dependent upon her for his care.

J.K.'s mother contacted Disability Rights California to help her obtain respite care services for her son from the Regional Center, so he could remain at home with the level of care that meet his needs.

The Regional Center assessed J.K.'s need for respite care services at twenty-four (24) hours a month and offered to provide it at an overnight nursing care facility. Mother disagreed with the proposed location and reminded the Regional Center of her son's fragile health and of the fact that he is not used to sleeping outside the home. With Disability Rights California's assistance, the Regional Center

identified an appropriate vendor and authorized payment for respite services in the home.

Benefits Goals and Objectives: Goal 3, Obj. A; Lanterman Goal 3, Obj. A

DRC Staff: Michelle Porche & Aleyda Toruno

Grant/Funding Source(s): PAAT

Disability Rights California Prevented Premature Discharge from Acute Rehabilitation for Person with Traumatic Brain Injury

R.M. had been in an automobile accident with multiple injuries including head trauma (frontal lobe) that put him in a coma for about eight days. He was found presumptively eligible for Medi-Cal in Hospital A. Following treatment and stabilization at Hospital A, R.M. was transferred to Hospital B for acute inpatient rehabilitation. Hospital B sought to cut short his inpatient rehabilitation and to discharge him prematurely and without linking him to any follow-up services. The premature discharge was related to the State budget and concerns about Medi-Cal payments beginning in July and complications from manifestation of his pre-existing bipolar diagnosis.

Disability Rights California sent R.M. and his mother, who was working with him as an advocate, a letter detailing his right to acute inpatient rehabilitation services needed because of a brain injury under the Medi-Cal program, including rights under Welf. & Inst. Code sections 14132(o), 14132.15, 14064, and 14132.8. The letter also detailed his right to appropriate discharge planning under 42 C.F.R. section 483.43 because Hospital B took Medicare and Medicaid money and therefore was required to comply with the Medicare hospital conditions of participation. Discharge planning includes “an evaluation of the likelihood of a patient needing post hospital services and of the availability of the services,” “an evaluation of the likelihood of a patient’s capacity for self-care or of the possibility of the patient being cared for in the environment from which he or she entered the hospital,” “appropriate arrangements for post-hospital care.” Section 482.43(b). In addition, “[t]he hospital must transfer or refer patients, along with necessary medical information, to appropriate facilities, agencies, or outpatient services, as needed for follow-up or ancillary care.” Section 482.43(d). The letter was faxed to Mr. M. at the hospital so that everyone at Hospital B could review it.

Hospital B continued acute inpatient rehabilitation for a few more days and then transferred him to a step down facility (sub acute) for continuation of rehabilitation and when discharged, linked him to follow-up services.

Benefits Goals and Objectives: Goal 2, Objective A
DRC Staff: Marilyn Holle
Grant/Funding Source: PAIMI

Disability Rights California Helps Child with Down's Syndrome and Mental Retardation Obtain IHSS Protective Supervision with Retroactive Hours and will Investigate Potential Unlawful Screening Processes in San Bernardino County

S.S. is a nine-year-old Inland Regional Center consumer with diagnoses of Down's Syndrome and mental retardation. S.S. lives with his mother and teenage sister and previously received a low number of In Home Supportive Services (IHSS) hours. He is not toilet-trained, has multiple personal care needs, challenging behaviors associated with his disabilities, and no appreciation of danger. S.S. also receives Special Education services and is enrolled in a special day class with a high teacher to student ratio. S.S. is supervised at all times at school and at home.

Last year, S.S.'s mother asked San Bernardino County IHSS to assess her child for Protective Supervision. The County did not find that S.S. needed Protective Supervision. S.S.'s mother appealed and an ALJ ordered the County to conduct a re-assessment. The County once again denied services. S.S.'s mother contacted Disability Rights California for help.

Disability Rights California staff reviewed documents about S.S. that were made available to IHSS when they decided to deny Protective Supervision. These included school records such as Individualized Education Plans (IEPs), Regional Center records such as Individualized Program Plans (IPPs) as well as mother's notes on incidents in which S.S. exercised poor judgment and was injured or re-directed to avoid injury. As a result, Disability Rights California believed that IHSS had ignored evidence that supported S.S.'s eligibility for Protective Supervision and offered to represent S.S. at the fair hearing.

During the two-day hearing, Disability Rights California presented evidence such as school records and Regional Center records, as well as the mother's testimony in support of S.S.'s eligibility. Evidence was also presented in support of a need for additional personal care service hours. At the hearing, Disability Rights California discovered that the IHSS worker as well as the County Appeals worker had developed and followed their own "rule of thumb" standards for protective supervision eligibility. Disability Rights California provided the ALJ with the correct legal standard. Following the hearing, the ALJ found S.S. eligible for IHSS

protective supervision hours at the maximum amount appropriate for his documented personal care needs (195 hours per month). The ALJ also awarded retroactive hours back to the date of the initial application.

This case not only benefited S.S. by obtaining the services he requires in order to remain safe in his home, but on a systemic level, it has given rise to Disability Rights California's investigation via a public records act request to see about the frequency and extent of this unlawful screening practice potentially harming other minor clients in San Bernardino County.

Benefits Goals and Objectives: Goal 3; Obj. A
DRC Staff: Hillary Sklar
Grant/Funding Source(s): PADD

DISCRIMINATION

Disability Rights California Files Lawsuit on Behalf of an 83-Year-Old Woman with Disabilities Seeking Equal Access to Retirement Community Dining Room

Hyatt v. Northern California Presbyterian Homes and Services, Inc., et al.

Case # C08-03265, United States District Court, Northern District of California, assigned to Magistrate Judge Edward Chen, awaiting assignment to a District Judge (filed July 7, 2008).

On July 7, 2008, Disability Rights California filed a case in the Northern District of California challenging the policy of The Sequoias – San Francisco, a Continuing Care Residential Community (CCRC) in San Francisco to prohibit the use of walkers at the buffet tables in the facility's dining room.

Ms. Hyatt is an 83-year-old resident of The Sequoias. She has lived there for approximately seven years. She has mobility disabilities which require the use of a walker; and a swallowing disorder which places limitation on her eating ability; and a vision impairment which makes it difficult for her to read a menu without an assistive device that she keeps in her apartment and is not portable. Ms. Hyatt is seeking injunctive relief against the owner of the facility and the food services company to require them to allow walkers in the dining room, including at the buffet tables.

This case has the potential to send a message to all CCRCs, as well as other types of congregate housing facilities, that residents who use walkers (and other assistive devices for mobility) have the same rights to access to the facility's dining facilities as residents who do not (currently) have disabilities.

Discrimination Goals and Objectives: Goal 2, Obj. A

DRC Staff: Pamela Cohen, Fred Nisen and Stuart Seaborn

Co-Counsel: Susan Ann Silverstein and Barbara Jones from AARP Foundation Litigation

Grant(s)/Funding Source(s): PAIR

Settlement in Laguna Honda Class Action Preliminarily Approved

Mark Chambers et al. v. City and County of San Francisco

Case No.: C06-06346 WHA, United States District Court, Northern District of California, Judge William H. Alsup (filed October 11, 2006).

See previous DOL Reports, Issues 47, 48, 52. *See also*, previous DOL Reports for *Davis v. CHHSA*, Issues 20, 25, 27, 29, 32, 35, 36, 42, 45, 48.

On November 14, 2007, Plaintiffs and Defendant San Francisco in *Chambers et al. v. City and County of San Francisco* notified federal District Court Judge William Alsup that they had reached a settlement agreement. During the months following, the Settlement Agreement was formally approved by the Board of Supervisors of the City and County of San Francisco, the City's Health Commission and the Mayor. On May 8, 2008, Judge Alsup issued an order for preliminary approval of the Settlement Agreement pending a final fairness hearing scheduled for September 18, 2008.

The action was originally filed October 11, 2006 by six residents of Laguna Honda Hospital (LHH) and the Independent Living Resource Center (ILRCSF) in San Francisco alleging discrimination in the form of unnecessary institutionalization under the Americans with Disabilities Act. These residents prefer, and have been determined to be capable of, living in their own homes and in the community. The purpose of the Settlement Agreement is to enhance community-based living options, through the provision of services and housing, to class members.

The class, which consists of Medi-Cal recipients who reside at LHH, are on the waitlist for LHH, are within two years post discharge from LHH or are patients at SFGH and are eligible for discharge to LHH, was certified by the Court in July,

2007.

Summary of Settlement Agreement

The Settlement provides for expanded community-based living options for seniors and people with disabilities in San Francisco. The results will be improved coordination of care and greatly increased housing options and other services.

Included in the agreement are:

- Provisions for community-based services for all named class members;
- Commitment from San Francisco to provide access to independent housing and ensure the availability of non-profit agencies to provide Medi-Cal Nursing Facility A/B (NF A/B) Waiver services to eligible individuals;
- The creation of a Diversion and Community Integration Program (DCIP) to provide an integrated approach for individuals referred for admission to, and diversion and discharge from, LHH, with the goal of placing those individuals in the most integrated setting that is appropriate to their needs and preferences;
- Provision of/Referral for Case Management and Wrap-Around Services;
- Providing Access to Affordable, Accessible Community Housing, including through development of a LHH Rental Subsidy Program which will subsidize scattered site, accessible, independent housing for approximately 500 class members who are eligible for community-based services;
- Enhancement of Mental Health/Substance Abuse Services;
- Provision for a smaller Laguna Honda Hospital with the goal that the facility is for short-term, rehabilitative treatment;
- Provision of Grievance Procedures for Class Members;
- Provision for Data Collection and Reporting to Disability Rights California and co-counsel on a regular basis;
- Quality Assurance provided by Defendant San Francisco; and,

- Monitoring of Implementation of the Settlement by Disability Rights California.

Discrimination Goals and Objectives: Goal 1, Obj. A; Benefits Goal 5, Obj. A.
DRC Staff: Elissa Gershon, Kim Swain, and Elizabeth Zirker
Co-Counsel: Disability Rights Education and Defense Fund (DREDF), AARP Foundation Litigation, the Bazelon Center for Mental Health Law, and the law firm of Howrey LLP (*pro-bono*).

Criminal Charges Dropped Against Parent with a Disability who was Accused of Childcare Fraud

Carter, et al. v. Allenby et al.

Case No. GIC 879152, San Diego Superior Court.

See Previous DOL Reports Issues, 49, 51 & 52

A Disability Rights California client, a woman with a mental disability, is one of the plaintiffs who sued the California Department of Social Services and San Diego County challenging the County's childcare policy that discriminates against people with disabilities. Prior to this lawsuit, T.F. had been found by an administrative law judge to have committed childcare fraud for utilizing childcare services while taking herself or her disabled children to medical appointments or surgery or while being too depressed to leave the house. T.F. was arrested and spent a weekend in jail and a criminal complaint was filed against her. On May 14, 2007, T.F.'s unfavorable administrative decision was vacated and remanded for a new hearing. On May 15, 2008, as a direct result of the remand, the criminal charges were dropped. She decided not to seek a new hearing on the overpayment.

Discovery is continuing on the portion of the case challenging the discriminatory policy, with hearing on the Writ of Mandate scheduled for October 17, 2008.

Discrimination Goals and Objectives: Goal 3, Obj. A
DRC Staff: Ann Menasche
Grant(s)/Funding Source(s): PAIMI

M.L. Wins Approval of Section 8 Benefits

M.L. is a person with a psychiatric disability whose application for section 8 benefits was denied for failure to disclose a small annuity. The failure was not intentional and related to difficulties with memory and concentration related to his disability.

Disability Rights California contacted the San Diego Housing Commission, provided documentation from M.L.'s psychiatrist, and convinced the Commission to grant his application for Section 8 benefits as a reasonable accommodation.

Discrimination Goals and Objectives: Goal 2, Obj. A

DRC Staff: Ann Menasche

Grant(s)/Funding Source(s): PAIMI

Disability Rights California Assists TM with Getting Section 8 Voucher Reinstated

T.M., a woman with mental and physical disabilities, was denied a necessary extension on her section 8 voucher as a reasonable accommodation in order for her to locate accessible housing in Berkeley. T.M. had originally obtained her voucher from the Orange County Housing Authority (OCHA) which was ported to Berkeley. The voucher was set to expire on July 2, 2007.

Despite a diligent effort to obtain a suitable accessible apartment, T.M. was unable to do so by the deadline. She requested and was granted an additional extension from the Berkeley Housing Authority (BHA) until September 7, 2007. However, BHA failed in their obligation to inform the OCHA prior to the voucher's original expiration date, of the lease-up status of the voucher.

Right before the new expiration date, T.M. located an apartment; however, she subsequently learned that the apartment charged \$150 per month for parking, a sum that she could not afford. Neither was she able to walk the six block distance she would need to walk in order to utilize street parking. The apartment also denied her request for free parking as a reasonable accommodation.

After the apartment fell through, T.M. requested and was denied an additional extension on the voucher from both the OCHA and the BHA.

Disability Rights California sent demand letters to both Housing Authorities and was ultimately successful in convincing the BHA to agree to reinstate T.M.'s

voucher and to provide the two bedroom voucher that she needed as an accommodation for a live-in aide.

Discrimination Goal and Objectives: Goal 2, Obj. A

DRC Staff: Ann Menasche and Pamela Cohen

Grant(s)/Funding Source(s): PAIMI

Tentative Settlement Reached in Discrimination Case on Behalf of People With Disabilities Residing in a Group Home

Miller, et al. v. City of Buena Park

Case No. SA CA 07-1002 AHS (ANX), United States District Court, Central District of California

See Previous DOL Report Issue 51

On May 20, 2008, while a decision on defendants' motion to dismiss was still pending, attorneys for the disabled residents of a group home in Buena Park reached a tentative settlement with the City of Buena Park regarding the City's refusal to allow the residents to use their garage as a recreation room. City ordinances require garages to be used for the parking of two cars. None of the residents have vehicles or are able to drive.

Under the terms of the settlement, the City will allow the requested use as a reasonable accommodation, will terminate code enforcement proceedings against the owner of the group home, and will pay the plaintiffs \$2,000 to allow them to purchase a new pool table. (The old one broke when the City forced them to remove it from the garage.) The City also agreed to recommend to the city council that they approve a reasonable accommodation ordinance establishing a process for requesting accommodation in land use. If such an ordinance is not approved, the City agreed to enact an administrative process satisfactory to plaintiffs.

Discrimination Goals and Objectives: Goal 2, Obj. A

DRC Staff: Ann Menasche

Co-Counsel: Christopher Brancart of Brancart & Brancart

Grant(s)/Funding Source(s): PADD/PAIMI

Disability Rights California Assists E.B. to Receive Needed HIV Treatment at County Jail

E.B. contacted Disability Rights California seeking assistance in receiving medical treatment for his HIV positive condition. He is incarcerated at a county jail and was without any HIV medication for a number of months when Disability Rights California staff first visited him.

Disability Rights California sent an opinion letter to the county jail outlining the standard of medical care in a facility and demanded a meeting to address E.B.'s lack of HIV treatment. Following this letter, the county jail agreed to meet with Disability Rights California staff. Disability Rights California staff met with the head physician at the county jail to discuss this issue. Since that meeting, Disability Rights California has actively monitored E.B.'s situation. The county jail began prescribing him HIV medication within the last month.

Discrimination Goals and Objectives: Goal 3, Obj. A

DRC Staff: Sean Rashkis and Stuart Seaborn

Grant(s)/Funding Source(s): PAIR

Disability Rights California Assists T.F. to Secure Medical Expense Deduction to Help Lower Her Monthly Rent in Publicly-Funded Housing Program

T.F. is a woman with multiple physical disabilities, including a severe fluoride allergy, who resides in a publicly-funded apartment complex in Sacramento. (The complex is funded through by the United States Department of Housing and Urban Development (HUD)). T.F. has lived in the complex for more than 10 years and, for much of that time, she has paid a reduced-rate rent based on her limited income. Until this year, the housing authority that manages the complex had allowed T.F. to deduct medical expenses she incurs, including costs associated with purchasing fluoride-free bottled water, from the reportable income used to calculate her rent. This year, however, housing authority staff denied her request to deduct the cost of bottled water she purchased from her reportable income. As a result, T.F.'s rent increased.

After receiving notice of the rent increase, T.F. contacted Disability Rights California which researched HUD guidelines on medical-expense-related deductions in the income calculation process. Disability Rights California staff pointed out the broad language of HUD's guidelines and worked with T.F. as she sought a letter from her doctor documenting her disability-related need to purchase

and drink fluoride-free, bottled water. With Disability Rights California's assistance, T.F. prepared a written request to the housing authority documenting her medically based need for the bottled water (with the letter from the doctor as an attachment). Shortly after receiving T.F.'s written request, housing authority staff reinstated her medical-expense deduction so that it included the cost of purchasing fluoride-free bottled water and reduced her rent accordingly.

Discrimination Goals and Objectives: Goal 2, Obj. A

DRC Staff: Stuart Seaborn

Grant(s)/Funding Source(s): PAIR

Disability Rights California Helps Man with Multiple Physical Disabilities Challenge County's Attempt to Place Him on Conservatorship

In Re Conservatorship of G.N.

Colusa County Superior Court

G.N. is a man with multiple physical disabilities who requires 24-hour in-home care and has limited oral communication ability. He had been living independently in his own apartment with the assistance of home-care staff until being hospitalized for an infection that began in his foot and spread throughout his body. Once the infection was under control, the County attempted to place him on a conservatorship, claiming that his dependence on others for his care left him unable to take care of his needs and vulnerable to fraud.

G.N. contacted Disability Rights California after the County Conservatorship Investigator served him with notice of the hearing on his conservatorship. At G.N.'s request, Disability Rights California prepared legal arguments about the standards for placing an individual on conservatorship, which highlighted the fact that the County never alleged that G.N. lacked capacity to make his own decisions. Disability Rights California provided these arguments to the client's court-appointed attorney, in the form of an opinion letter. Disability Rights California staff also prepared a declaration detailing G.N.'s ability to communicate in writing and participate in a conversation through the use of written materials. Finally, Disability Rights California assisted G.N.'s advocate at the FREED Center for Independent Living as she prepared information for the Court covering community-based services that could serve as alternatives to conservatorship.

After the G.N. and his court-appointed attorney presented this information, the County ended up deciding not to pursue the proposed conservatorship. Currently, G.N. is living in his apartment with the assistance of home-care workers.

Discrimination Goals and Objectives: Goal 1, Obj. A

DRC Staff: Stuart Seaborn and Suzanna Gee

Co-Counsel: Claudia Hollis, an advocate at FREED Center for Independent Living, and Albert Smith, Esq., Court-Appointed Attorney

Grant(s)/Funding Source(s): PAIR/PAAT

Favorable Settlement Reached in Housing Discrimination Case

Greater Fair Housing of Napa Valley v. Harvest Redwood Retirement

Case No. C07-3652 PJH, United States District Court, Northern District of California, Judge Phyllis J. Hamilton

Disability Rights California joined Fair Housing of Napa Valley and the Law Firm of Brancart and Brancart in a fair housing lawsuit centered around allegations of disability-related discrimination at Redwood Retirement Residence in Napa, California. The specific terms of the agreement are confidential, but in the settlement Redwood Retirement Residence agrees to make revisions to its non-discrimination guidelines, to amend provisions in its standard rental and services agreement form, and to change its meal tray policies. In addition, Redwood Retirement has agreed to undertake additional training for management regarding the fair housing laws. Redwood's parent has also agreed to make these changes for its other facilities.

Discrimination Goals and Objectives: Goal 2, Obj. A

DRC Staff: Stuart Seaborn

Co-Counsel: Liza Cristol-Deman, Law Offices of Brancart & Brancart and Fair Housing of Napa Valley

Grant(s)/Funding Source(s): PAIR

EDUCATION FOR CHILDREN & YOUTH

S.D. Re-Enrolled in School District and Receives Compensatory Education Services

S.D. v. B.P.U.S.D.

Case No. *OAH N2008030776*, Office of Administrative Hearings, Mediator was Office of Administrative Hearings Judge Richard Breen

S.D., a 19-year-old male, retained Disability Rights California after he had been released from Juvenile Hall and was excluded from re-entry into Baldwin Park Unified School District. At the time of exit from Baldwin Park Unified School District into Juvenile Hall, S.D. had been exhibiting severe behavior issues at school. These behaviors resulted in over 17 suspensions in one school year and a change of placement into a continuation school.

S.D.'s prevalent behaviors could be traced back nearly seven years throughout his education in BPUSD. Despite the obvious need for positive behavior intervention, S.D. did not have a Behavior Support Plan (BSP) or a Functional Analysis Assessment (FAA).

S.D. was at a third grade level in reading and math at the time of the filing of the Due Process complaint. He had been completely out of school for nearly ten months after his Juvenile Hall release causing him to regress both academically and socially. This was a direct result of the school district failing to re-enroll S.D. upon his release from Juvenile Hall.

The primary legal issue in S.D.'s case was the failure of the school district to provide adequate behavior supports and failure to provide educational services to S.D. after his release from Juvenile Hall. Because of the District's failure to provide these educational services, S.D. was performing well below grade level in all areas of academics. The District is obligated under the California Education Code to provide educational services to students with disabilities. In addition, California law specifically calls for the addressing of behavior issues through the Hughes Bill.

On June 9, 2008, both parties met in mediation. A settlement agreement was reached whereby S.D. would remain in his current school placement where he would be evaluated by an independent assessor for a Functional Analysis

Assessment. S.D. was also to receive compensatory education services in the form of Non Public Agency academic tutoring hours with a concentration on academics as well as behavior intervention strategies.

S.D. is currently enrolled in school and will receive compensatory education in the form of academic tutoring by a Non-Public Agency that specializes in students with behavior issues. This tutoring will help S.D. to obtain his goal of graduating high school and passing the CAHSEE exam.

Education for Children and Youth Goals and Objectives: Goal 1, Obj. A; Goal 2, Obj. A

DRC Staff: Jennifer Williams, Keith Sakimura, and Connie Huang

Co-Counsel: N/A

Grant/Funding Source(s): SPLC

K.M. Expulsion Decision Reversed and He Receives Independent Assessments

Office of Administrative Hearings.

K.M., 14-year-old boy, called Disability Rights California for counsel and advice regarding the appeal of his manifestation determination and approach at his expulsion hearing. Parents filed for Due Process previously in November, 2006 in Bakersfield School District in regards to the lack of behavior support. Although the parents were able to obtain a favorable outcome at the November, 2006 Due Process proceedings, the settlement agreement was never enforced to provide a Functional Analysis Assessment (FAA), Behavior Intervention Plan (BIP), and/or any additional behavior services.

Disability Rights California assisted K.M. in preparing a Due Process complaint based on the manifestation determination that K.M.'s incident leading to expulsion was directly related to his disability and the fact that K.M. had failed to receive any behavior support despite the 2006 settlement agreement and continuing escalating behaviors. K.M.'s parents filed the complaint *in pro per*.

K.M. was facing expulsion for behavior problems that should have been addressed by conducting a FAA and developing a BIP according to the 2006 settlement agreement.

On May 28, 2008, the parties met in mediation. The parties agreed to stop the expulsion proceedings, conduct a FAA, and develop appropriate behavior supports and services for K.M.

K.M. is currently enrolled to start back in school in the fall. At that time, school observation will be conducted in order to complete the FAA.

Education for Children and Youth Goals and Objectives: Goal 1, Obj. A; Goal 2, Obj. A

DRC Staff: Jennifer Williams and Keith Sakimura

Co-Counsel: N/A

Grant/Funding Source(s): SPLC

M.C. Given an Opportunity to Attend School

M.C. v. San Diego Unified School District

Office of Administrative Hearings.

M.C. is a fourteen year old student who attended eighth grade on a comprehensive high school campus. M.C. has diagnoses of emotional disturbance, atypical depressive disorder, and attention deficit hyperactivity disorder. Although he was diagnosed with these disabilities early in life, he was not eligible for special education until after being hospitalized for threatening to hurt himself.

M.C. had a history of high academic scores and compliant behavior in his classes. He was fully mainstreamed in all of his classes, and finished the seventh grade with an average of A's and B's in his academic subjects.

In the eighth grade, M.C. entered with a behavior support plan that included notes that his behaviors were more severe in unstructured times, such as recess and lunch. M.C. started exhibiting these behaviors within the first month of school. Behaviors included swearing and verbal defiance. Rather than following his behavior support plan, school officials began detaining him in the principal's office and sending him home. This instituted a pattern of discipline that became excessive, as the school sent him home and suspended him for issues such as wearing a hat, swearing, and arguing.

When M.C.'s parents contacted Disability Rights California, he had been suspended or detained in the office for more than 25% of the school year. During those times, the District was not providing him with school work to allow him to keep on track with his peers. He was failing all of his classes and viewed school as a negative place. The District proposed retaining him in the eighth grade and placing him at an alternate site. Although they had proposed a Functional Analysis Assessment (FAA), M.C.'s parents were not informed of what an FAA was, and

did not trust the school to conduct one. Rather than filing for due process against M.C.'s parents to sign the assessment plan, the District continued its pattern of suspending him.

On May 28, 2008, the parties met in mediation. In exchange for Disability Rights California agreeing to dismiss the due process proceedings, the District agreed to provide M.C. with tutoring at a non-public agency for the summer to allow him to catch up to his peers, placement during the 2008/2009 school year at a comprehensive high school campus with a one to one aide, an FAA and an updated Behavior Services Plan (BSP) while the FAA was being completed.

M.C. has successfully completed his tutoring program at which his teachers said that he "blossomed" and is working at an appropriate level to start the ninth grade. He is currently enrolled to start back in school in the fall. At that time, school observation will be conducted in order to complete the FAA.

Education for Children and Youth Goals and Objectives: Goal 1, Obj. A; Goal 2, Obj. A

DRC Staff: Lauren Giardina

Co-Counsel: None

Grant/Funding Source(s): EA Children and Young Adult Initiative

L.T. Allowed to Attend Accessible General Education Classes

No case, L.T. was client, Jurupa Valley Unified School District was opponent.

L.T. is a six-year-old student who was enrolled in kindergarten. L.T. has a diagnosis of spina bifida, but has not been diagnosed with any accompanying learning or behavior disabilities. L.T.'s parent initially contacted Disability Rights California because she felt that her daughter's diapering routine was not sufficient. In addition, L.T. was enrolled in a special day class at a school that was not her school of residence, solely because she used a wheelchair. L.T.'s parent was told by the school (and believed) that the only physically accessible classes in the school were special day classes and that her daughter could not attend school in a general education class. Further, although L.T. mainly used a walker for mobility, the school required her to use a wheelchair because it was easier to get her around.

The school district failed to comply with State and Federal Requirements to educate all children in the Least Restrictive Environment to the greatest extent possible with their general education peers. Furthermore, the district violated the

federal regulation requiring schools to place students in their school of residence unless the Individual Education Plan (IEP) requires placement elsewhere.

On June 26, 2008, the parties met at an IEP meeting. At that meeting, the district agreed that it was not in compliance with LRE requirements. The District agreed that for the 2008/2009 school year, it will place L.T. in a general education first grade class with Resource Specialist Program support to compensate for her transition from a special day class to a general education class. The school will also provide an aide at lunch and recess to assist her in participating in events with her peers, and will ensure that she uses her walker at all times.

L.T. is enrolled in school and will begin in the fall.

Education for Children and Youth Goals and Objectives: Goal 1, Obj. A

DRC Staff: Lauren Giardina

Co-Counsel: None

Grant/Funding Source(s): EA Children and Young Adult Initiative

LANTERMAN

Settlement Discussions Ongoing; Discovery and Trial Preparation Continue

Capitol People First et al. v. Department of Developmental Services et al. v. CASH/PCR

Case No. 2002-038715, Alameda County Superior Court, Judge Robert B. Freedman, filed January 2002.

See previous DOL report, Spring 2008. *Also see* DOL Report, Spring 2002 for a summary of the case.

Capitol People First was filed as a class action seeking community living arrangements for more than 7,000 Californians with developmental disabilities who are residents of the developmental centers or other large congregate facilities and people at risk of placement in such facilities.

In January 2008, the California Supreme Court denied the state defendants' and interveners' petitions for review of a Court of Appeal decision that was favorable to plaintiffs. This Supreme Court decision is a victory for plaintiffs; it means that

the Supreme Court was not convinced that it needed to hear an appeal of the Court of Appeal's decision.

In September 2007, in a resounding victory for plaintiffs, the California Court of Appeal for the First Appellate District had ordered the trial court to grant class certification. The case is now proceeding as a class action on behalf of the thousands of individuals who receive services from regional centers and are either living in state or private institutions, or are at risk of institutionalization. The ruling means that even people with significant disabilities have meaningful access to the courts to vindicate their rights to live as a part of rather than apart from the community.

Discovery in the case, which had been stayed while the class certification appeal was pending, is now proceeding. If the parties do not reach a settlement, the case is expected to go to trial in approximately March, 2009. Settlement discussions, with the assistance of Alameda County Superior Court Judge Brick, are currently ongoing with all defendants.

Background on the case, including legal documents and press coverage 2002-2006, can be read at www.pai-ca.org/advocacy/cpfvdds/index.htm.

Lanterman Goals and Objectives: Goal 1, Obj. 1.

Counsel for DRC: Barbara Dickey, Sujatha Jagadeesh Branch, Jonathan Elson, Elissa Gershon, Ellen Goldblatt, Will Leiner, Maggie Roberts, Dara Schur, and Kim Swain.

Outside Co-counsel: Chris O'Connor, Jeanne Sheahan, Bingham McCutchen; Michael Schwartz, Richard Mulloy, Nikki Wyll, Aaron Wainscott, DLA Piper
Grant/Funding Source(s): PADD, PATT, Equal Access, IOLTA Trust Fund

Training to Central Valley Disability Rights Advocates

Disability Rights California provided training in Fresno to Central Valley Disability Rights Advocates, an umbrella group of advocates from several advocacy groups such as Exceptional Parents Unlimited, United Cerebral Palsy of Kings County, Owens Valley Career Development Center, Fresno Unified School District, Kern Indian Education Center, Tule River Tribe and the American Indian Education Center. The Lanterman Workgroup portion of the training focused on self-directed services (SDS). Members of the group have been actively following the development of SDS and are eager to implement it in their area. Disability Rights California discussed the general status of SDS, processes involved, and

gave an overview of the key components of the program along with strategies to maximize it's efficacy. Approximately 22 advocates attended.

Date of event: June 13, 2008

Location: Exceptional Parents Unlimited, Fresno.

Lanterman Goals and Objectives: Goal 4, Obj. B

DRC Staff: Jonathan Elson, Leilani Pfeifer, Suzanna Gee, Will Schell, Phyllis Preston, and Loni Pfeifer

Grant/Funding Source: PADD

MENTAL HEALTH

Case Involving Challenge to Governor's Veto of Integrated Services for Homeless Adults Program Moves Forward

Mental Health Association of California et al. v. Schwarzenegger et al.

Case No. RG07361190, Alameda County Superior Court, Judge Frank Roesch

On December 13, 2007, Disability Rights California and several other advocacy organizations filed suit challenging the Governor's veto of the \$55 million appropriation for the AB 2034 (Integrated Services for Homeless Adults) program. In April 2008, the court rejected the defendants' request to dismiss the case and we have been actively pursuing discovery, including requesting thousands of documents and scheduling depositions. We hope to have the court hear the case at the end of January 2009.

Mental Health, Goal 3, Obj. A

DRC Staff: Dan Brzovic, Sean Rashkis, Andy Mudryk

Other Counsel: Western Center on Law & Poverty, Mental Health Advocacy Services, National Center for Youth Law, and Howard Rice

Grant/Funding Source: PAIMI

VOTING

Collaboration Between Disability Rights California and Election Protection

The Los Angeles office of Disability Rights California is broadening its advocacy efforts for the 2008 election by working with the local affiliate of Election Protection. Election Protection is a non-partisan group committed to protecting the right to vote and ensuring fair elections. Representatives from the two organizations met and decided that Disability Rights California would take an active role in training Election Protection's Call Center volunteers and Mobile Legal volunteers on disability related issues. Disability Rights California will also have more involvement in Election Protection's media outreach efforts.

Election Protection has a substantial, well organized operation in the Los Angeles area. By collaborating with Election Protection, Disability Rights California hopes to expand its advocacy efforts to achieve a much larger impact. Disability Rights California also hopes to increase Election Protection's awareness of disability voting rights issues. Most importantly, Disability Rights California's expanded advocacy through its collaboration with Election Protection will highlight systemic disability voting issues that demonstrate the need for state and Federal legislation.

Discrimination (Voting Team) Goals and Objectives: Goal 4, Obj. B.
DRC Staff: Hillary Sklar, Kevin Bayley, Andrew Berk, Melissa Tyner

New Flyer on Signature Stamp Act

Disability Rights California drafted a one-page flyer on the new Signature Stamp Act. The Signature Stamp Act allows a person with a disability who is unable to sign their own name to vote by using a mark or a signature stamp to sign the voter's affidavit.

Discrimination (Voting Team) Goals and Objectives: Goal 5, Obj. B.
DRC Staff: Fred Nisen
Grant/Funding Source(s): PAVA

Disability Rights California Participates on Forum Regarding Accessible Voting in California and Mexico

A contingent from Mexico working on accessible voting issue was in the Bay Area on June 3, 2008 to observe how California makes their elections accessible to

people with disabilities. On June 4, Disability Rights California participated on a forum at the University of California, Berkeley with a county election official and the Mexican contingent. Disability Rights California and the county election official gave an overview of accessible voting in California. The Mexican contingent spoke about the lack of accessible voting in Mexico and the movement to increase the voting accessibility for people with disabilities.

Discrimination (Voting Team) Goals and Objectives: Goal 4, Obj. C.

DRC Staff: Fred Nisen, Maria Marquez

Grant/Funding Source(s): PAVA

Disability Rights California Sponsored a Voting Hotline for the June 3, 2008 Primary Election

Disability Rights California continued its tradition of sponsoring an Election Day toll-free hotline for Californians with disabilities to assure full and equal access to the voting process. Disability Rights California used funding from the Help America Vote Act (HAVA) to assist voters with disabilities who had difficulty accessing polling places, casting ballots or had general questions about the voting process. Disability Rights California's hotline is equipped to receive voice, TDD, and Video Relay calls and is also equipped to handle calls from individuals who speak languages other than English.

In addition to assisting voters in this election, Disability Rights California uses the information collected from callers to document discrimination and access problems at polling places throughout California. Californians with disabilities are invited to contact Disability Rights California throughout the year with their questions about voting rights and access issues.

Disability Rights California received calls from a voter with visual impairments who experienced difficulty obtaining transportation to and from his poll site. Disability Rights California worked with the voter and made calls on his behalf to County Officials, the Independent Living Center, and to California Foundation of Independent Living Centers (CFILC) to arrange transportation. As a result, the voter found transportation. Disability Rights California also assisted a voter who experienced numerous physical access barriers at his poll site as well as problems with the electronic voting system. As a result of Disability Rights California's help, the voter cast his ballot and filed a complaint with the California Secretary of State.

In addition, Disability Rights California continued to investigate problems reported by Los Angeles County and Los Angeles City voters with disabilities. As a result of Disability Rights California's help, the callers were able to cast their ballots. With guidance from DRC Staff voters advocated for themselves and also filed Help America Vote Act and ADA complaints.

Discrimination (Voting Team) Goals and Objectives: Goal 4, Obj. B.
DRC Staff: Hillary Sklar, ThoVinh Banh, Will Schell, Phyllis Preston, Fred Nisen, Kim Swain, Crystal Padilla, Suzi Bernais, Melissa Tyner, Sofia Sami, Beverly Familiar, Lauren Giardina, and Ivan Guillen.
Grant/Funding Source(s): PAVA

Disability Rights California Posted Information about Disability Rights California's Election Hotline Phone Number that Reaches Thousands of Individuals with Disabilities.

Disability Rights California targeted information about Disability Rights California's Election Hotline service to individuals with disabilities by having the information posted on the California Disability Community Action Network (CDCAN). This network reaches over 45,000 people with disabilities, seniors, their families, community based organizations and providers of supports and services. Disability Rights California also had the information about the Election Hotline posted on the State Council on Developmental Disabilities (SCDD) website. Information includes Disability Rights California's toll free telephone number for voice calls and for TDD calls and instructions for individuals who speak languages other than English. Information also specifies specific barriers that individuals with disabilities may face and the purpose of the hotline to fix problems on election days so that individuals with disability may effectively exercise their right to vote.

Discrimination (Voting Team) Goals and Objectives: Goal 5; Obj. B.
Grant/Funding Source(s): PAVA

Disability Rights California Conducts Voting Training on Radio for Vietnamese Community

Disability Rights California conducted a voting training on Radio Station AM 1430 in San Jose on voting rights for people with disabilities. The training was interpreted in Vietnamese. The training featured an overview of people with disabilities' right to vote. Listeners were also informed of Disability Rights

California's Election Day hotlines for the June 3, 2008 and November 4, 2008 elections.

Discrimination (Voting Team) Goals and Objectives: Goal 5, Obj. B.

DRC Staff: Fred Nisen

Grant/Funding Source(s): PAVA

GLOSSARY OF SELECTED TERMS

“A&D FPL PROGRAM” or AGED & DISABLED FEDERAL POVERTY LEVEL PROGRAM (Also referred to as the Medi-Cal 133% Program)

Individuals or married couples whose income is more than SSI levels, but who are still considered low income, may be eligible to receive Medi-Cal with no share of cost under this program. Under this program an individual who needs assistance with personal care and/or housekeeping tasks so they can remain safely in their homes can also receive these services with no share of cost.

AB 2726/3632

Assembly Bills 2726 and 3632 provides referrals to County Mental Health Services for children with special education needs beyond what schools can offer. These services are considered special education services.

“ADHD” or ATTENTION DEFICIT-HYPERACTIVITY DISORDER

Attention deficit-hyperactivity disorder (ADHD) is a neurobehavioral disorder that affects 3-5 percent of all American children. It interferes with a person's ability to stay on a task and to exercise age-appropriate inhibition (cognitive alone or both cognitive and behavioral). Some of the warning signs of ADHD include failure to listen to instructions, inability to organize oneself and school work, fidgeting with hands and feet, talking too much, leaving projects, chores and homework unfinished, and having trouble paying attention to and responding to details. There are several types of ADHD: a predominantly inattentive subtype, a predominantly hyperactive-impulsive subtype, and a combined subtype. ADHD is usually diagnosed in childhood, although the condition can continue into the adult years.

ALTERNATIVE DISPUTE RESOLUTION (ADR)

Methods of resolving disputes without official court proceedings. These methods include MEDIATION and ARBITRATION.

AMICUS CURIAE

Disability Rights California is often asked to appear as an organizational “*amicus curiae*,” or “*friend of the court*” in court cases raising important issues for people with disabilities. Appearing as an “*amicus*” means that DISABILITY RIGHTS CALIFORNIA submits a brief to the court raising issues as an organization, rather than on behalf of individual clients, because the issues are important to us as an advocacy organization or important to people with disabilities. When DISABILITY RIGHTS CALIFORNIA appears as an *amicus curiae*, DRC Staff

usually assists with drafting and revising the brief, and co-signs the brief with other interested parties.

ARBITRATION

When a person that isn't involved in the case looks at the evidence, hears the arguments, and makes a decision.

BEHAVIOR INTERVENTION PLAN

Plan made by a local educational agency (LEA) as part of an individualized education program (IEP), to change the behavior of students who harm themselves, assault others, or are destructive.

“BPAO” or BENEFITS, PLANNING, ASSISTANCE, AND OUTREACH

The Social Security Administration (SSA), as authorized by the Ticket to Work and Work Incentives Improvement Act of 1999, awarded cooperative agreements to a variety of community organizations called Benefits Planning, Assistance, and Outreach (BPAO) projects. These BPAO projects provide all SSA beneficiaries with disabilities (including transition-to-work aged youth) access to benefits planning and assistance services. The goal of the Benefits Planning, Assistance, and Outreach (BPAO) Program is to better enable SSA's beneficiaries with disabilities to make informed choices about work. Each BPAO Project has Benefits Specialists who will:

- Provide work incentives planning and assistance to SSA's beneficiaries with disabilities
- Conduct outreach efforts to those beneficiaries (and their families), who are potentially eligible to participate in Federal or State work incentives programs; and
- Work in cooperation with Federal, State, and private agencies and nonprofit organizations that serve beneficiaries with disabilities.

“BWE” or BLIND WORK EXPENSES

If the Social Security Administration (SSA) considers you statutorily blind, you can have your actual benefit amount increased by up to 100% of all your work expenses, whether or not those expenses are related to your disability. You can claim transportation expenses, the cost of lunch at work, and even the taxes you pay because of earnings. If your SSA Claims Representative agrees that your claimed work expenses can be included in a BWE, you may be able to recover up to 100% of those expenses by increasing your SSI check up to its maximum. Exactly how much your SSI benefit may increase depends on your living situation, your earned and unearned income, and the amount of your BWE.

CALWORKS

CalWORKS is California's welfare program for people who have children under 19 years old. CalWORKS provides money for children and the relatives caring for them. Work and training is required of most parents. Adults can only get CalWORKS cash aid for five years in a lifetime. If you qualify under the rules, you are entitled to cash aid from the county.

“CDR” or CONTINUING DISABILITY REVIEW

Social Security Administration (SSA) reviews disability cases periodically to see if the person with a disability still meets SSA disability rules. SSA performs two types of reviews, a medical Continuing Disability Review and a work Continuing Disability Review. Under a work review, SSA looks at earnings to determine if an individual is eligible for monthly benefits. A medical review determines if an individual is meeting the medical requirements to collect disability. If the person does not meet the medical requirements, SSA may stop the disability benefits.

“CI” or COUNTABLE INCOME

Countable Income is the amount of your income that is included in calculations to determine your eligibility for Supplemental Security Income (SSI) benefits.

CLASS ACTION

A lawsuit brought by one or more persons on behalf of a larger group where certain individuals (called “class representatives” or “named plaintiffs”) act on behalf of a larger group of people who have similar issues. The court has to determine whether a case can proceed as a class action. If so, certain specific procedures apply relating to how the members of the larger group can get notice of the lawsuit and participate in it.

CONSERVATOR, CONSERVATEE and CONSERVATORSHIP

Conservatorship is a legal proceeding in which an individual or agency (to be known as the “conservator”) is appointed by a court to be responsible for a person who needs assistance in activities of daily living (the “conservatee”). A Conservator of the person must ensure that the conservatee is properly fed, clothed, and housed. A Conservator of the estate is responsible for managing the conservatee’s money and other property. One individual may serve as either conservator of the person or conservator of the estate or both. Conservatorship applies to an adult, i.e., a person eighteen (18) years of age or older.

COURT APPOINTED SPECIAL ADVOCATES (CASA)

These are specially trained volunteers who are appointed by a juvenile court to provide advocacy to children in the foster care system. CASA responsibilities include gathering information regarding the child; advocating for the child in IEP meetings and other forums; and making recommendations to the juvenile court about the child's best interests.

"CYA" or CALIFORNIA YOUTH AUTHORITY

The California Youth Authority (CYA), a California State agency of facilities for youths who have committed serious offenses.

DAMAGES

Money that the losing side must pay to the winning side to make up for losses or injuries. There are three kinds of damages: (1) "compensatory," meaning money to pay for the actual cost of an injury or loss; (2) "punitive" or "exemplary," meaning an amount of money that's more than the actual damages. Acts as punishment or deterrence for willful or malicious acts; and (3) statutory damages, which are specific amounts in the law awarded for specific legal violations.

DECLARATION

A statement that a person writes and files with the court. It tells the judge why the person should win the case. Sometimes, a person signs this under penalty of perjury.

DECLARATORY JUDGMENT

A judgment of the court that explains what the existing law is or expresses the opinion of the court without the need for enforcement.

DEMURRER

A "demurrer" is a specific kind of request filed with the Court in response to a lawsuit. A demurrer alleges that even if the facts are true, there is no legal violation. The court decides on the demurrer at a hearing after both parties present memos and argument to the court.

DEPOSITION

Written or oral testimony given under oath in front of an authorized third person like a court reporter. Depositions take place outside of the court. They allow the parties to get a record of a person's testimony, or to get testimony from a witness that lives far away. They can help the lawyers prepare their court papers called "pleadings." (See also DISCOVERY.)

“DDS” or CA DEPARTMENT OF DEVELOPMENTAL SERVICES

The California Department of Developmental Services (DDS), which funds and oversees services to people with developmental disabilities in California.

“DFEH” or DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

The California Department of Fair Employment and Housing is the state agency that investigates employment and housing discrimination claims and is responsible for enforcing state fair housing and fair employment laws, including disability rights laws in the housing and employment context.

“DHS” or CA DEPARTMENT OF HEALTH SERVICES

The California Department of Health Services (DHS), which funds and oversees health services in California, including nursing home care and home care.

DISCOVERY

The gathering of information (facts, documents, or testimony) before a case goes to trial. Discovery is done in many ways, such as through depositions, interrogatories, or requests for admissions. It can also be done through independent investigation or by talking with the other side's lawyer.

DISMISSAL WITH PREJUDICE

When a court dismisses a case and will not allow any other suit to be filed on the same claim in the future.

DISMISSAL WITHOUT PREJUDICE

When a court dismisses a case, but will allow other suits to be filed on the same claim.

“DMH” or CA DEPARTMENT OF MENTAL HEALTH

The California Department of Mental Health (DMH), which funds and oversees mental health services in California.

“DOE” or DEPARTMENT OF EDUCATION

“DSS” or CA DEPARTMENT OF SOCIAL SERVICES

The California Department of Social Services (DSS) funds and oversees public assistance programs in California, including CalWorks (family assistance) and case management for personal care services.

DYSAUTONOMIA

(Familial) Dysautonomia affects the autonomic nervous system, which controls involuntary actions such as digestion, breathing, tearing, and the regulation of blood pressure and body temperature. This condition also affects the sensory nervous system, which controls activities related to the senses, such as taste and the perception of pain, heat, and cold.

“EA” or EQUAL ACCESS

Disability Rights California receives grants from the state Equal Access to Justice Program to serve indigent people with disabilities on specified projects.

ELLIS ACT

The Ellis Act (California Government Code §§ 7600 et seq.) is a California law that bars local governments from enacting regulations, such as condominium conversion ordinances, that would prevent some landlords from leaving the rental housing market.

EN BANC

Court sessions where all the judges of a court participate, instead of the usual number. For example, the U.S. circuit courts of appeals usually use panels of three judges, but all the judges in the court may decide certain matters together. When that happens, they are sitting "*en banc*" (sometimes spelled "in banc"). It comes from the French language and means "on the bench."

“EPSDT” or EARLY AND PERIODIC SCREENING, DIAGNOSIS, AND TREATMENT

The Early and Periodic Screening, Diagnosis, and Treatment Program (EPSDT) provides health care diagnostic and treatment services to individuals under age 21. Under federal law, California must give people under age 21 specified diagnostic services. They also must provide treatment services to correct or ameliorate defects and physical and mental illnesses and conditions discovered as a result of the diagnostic services.

EXCEPTION PAYMENT

“Exception Payment” is a subsidy above the amount usually allowed.

“EXR” or EXPEDITED REINSTATEMENT

This term is used under The Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI) programs to allow benefits for a person with a disability to be reinstated quickly if they are no longer working. It provides for

temporary benefits during a period of evaluation, rather than requiring a new application for benefits.

“EPE” or EXTENDED PERIOD OF ELIGIBILITY

This term is used under the Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI) programs to provide additional protections to people whose disabilities may only allow periodic employment. Under these programs, if you stop working you may automatically have your benefits restored without having to reapply.

FAIR HEARING

A hearing in front of an agency or administrative law judge to review an agency decision. People have certain rights in fair hearings such as the right to present evidence, to cross examine and to have findings supported by evidence.

FAIR MARKET RENT (FMR)

The Fair Market Rent (FMR) is the amount that the Housing and Urban Development (HUD) sets for rent. Tenants have to pay extra if rents exceed the FMR, as they usually do because the FMR's are unrealistically low.

“FIFTH CATEGORY” REGIONAL CENTER ELIGIBILITY

A person is eligible for the "fifth category" if he or she has a condition that is similar to mental retardation and/or has treatment needs that are similar to a person with mental retardation.

FORENSIC

A term used by both DDS and DMH and intended to indicate individuals who have had some involvement with the criminal justice system, though sometimes used too broadly for people with aggressive behavioral challenges. The intersection between the mental health system and the criminal justice system is often called “forensic mental health.” In California, there are 6 different commitment categories for people who are involved with the mental health system because of their contact with the criminal justice system.

“G-TUBE” or GASTROSTOMY TUBE

A Gastrostomy Tube (G-Tube) is a tube that is placed on the stomach to vent for air or drainage, and/or is an alternate way for feeding.

GUARDIAN AD LITEM

An adult appointed by a court who represents a minor child an individual who has difficulties in acting on his or her own behalf. Comes from Latin meaning for the "purposes of the lawsuit."

GUARDIANSHIP

A guardianship applies only to minors, i.e., person under the age of eighteen (18) years. The principal purpose of guardianship is to provide protection for a child who has no parent.

HABEAS CORPUS

A "writ of *habeas corpus*" is a judicial mandate to someone who has custody of a person ordering that the person be brought to the court so it can be determined whether or not that person is lawfully confined and whether or not the person should be released from custody. A habeas corpus petition is a petition filed with a court by a person who objects to the person's own or another's confinement, or to the conditions of confinement. The term comes from Latin.

"HHS" or HEALTH & HUMAN SERVICES

HHS is the federal agency overseeing health and human services.

"HIPAA" or HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT

The new federal Health Insurance Portability and Accountability Act (HIPAA) protects the privacy of medical records and other confidential health information, and restricts access to records except under specified circumstances.

"HOUSING CHOICE VOICHER" OR "SECTION 8"

Housing Choice Vouchers, often referred to as Section 8 Vouchers, help subsidize rents for lower income tenants, including tenants with disabilities. The local Public Housing Authority (PHA) pays part of the tenant's rent when the tenant rents from a private landlord.

"HUD" or U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

The U.S. Department of Housing and Urban Development (HUD) funds and regulates many housing and community development programs for lower income people and people with disabilities, including Section 8.

**“ICF-DD-N” or INTERMEDIATE CARE FACILITY
DEVELOPMENTALLY DISABLED-NURSING**

Intermediate Care Facility-Developmentally Disabled-Nursing (ICF-DD-N) are a category of community facilities licensed by the California Department of Health Services (DHS), which generally house 6 residents.

“IDEA” or INDIVIDUALS WITH DISABILITIES EDUCATION ACT

The Individuals with Disabilities Education Act (IDEA) is the federal statute that requires school districts receiving federal funds to provide all students who have a categorically defined disability with a free appropriate public education (FAPE) in the least restrictive environment. FAPE includes specialized instruction and related services that meet the state educational standards and are implemented as called for in a student’s individualized education program (IEP).

“IEP” or INDIVIDUALIZED EDUCATION PROGRAM

An Individualized Education Program (IEP) describes the educational program that has been designed to meet the unique needs of a child with disabilities. Each child who receives special education and related services must have an IEP, which is an individualized document developed in consultation with the parents, school, advocates, students (as appropriate), and health professionals.

“IHSS” or IN-HOME SUPPORTIVE SERVICES PROGRAM

The In-Home Supportive Services Program (IHSS) helps pay for services to eligible people to enable them to stay in their own homes. To be eligible you must be blind or have a disability or be over 65 and need these services so you can remain safely in your home. IHSS is an alternative to out-of-home care such as nursing homes or board and care facilities.

“IMD” or INSTITUTION FOR MENTAL DISEASE

An IMD is defined in the Code of Federal Regulations at 42 CFR 435.1009 as a facility of more than 16 beds that is primarily engaged in providing treatment services for individuals diagnosed with mental illness.

IMPLIED WARRANTY OF HABITABILITY

The right to get an apartment in good condition.

**IN-HOME OPERATIONS HOME AND COMMUNITY-BASED SERVICES
(IHO-HCBS WAIVER)**

The new IHO HCBS waiver combines several existing waivers, including the NF/AB waiver, to expand the number of slots and services that waiver recipients who would

otherwise be institutionalized in a nursing facility, subacute facility or acute hospital can receive in the community.

INDIAN CHILD WELFARE ACT (ICWA)

This is a federal law to protect the integrity of American Indian families. It acknowledges and implements the tribe's right to intervene in state child custody proceedings.

INJUNCTION

An injunction or permanent restraining order is a court order requiring someone to take specific actions or ordering them to stop certain behaviors, based on legal obligations. It is issued after both sides have been heard by the court in a hearing or trial. The court order specifies the specific actions, people and time for compliance.

IN FORMA PAUPERIS (IFP)

A court says a person does not have to pay a filing fee because the person can't afford it. In Latin, it means "in the manner of a pauper."

IN PROPIA PERSONA (IN PRO PER)

In Propia is when a person represents himself or herself without a lawyer. This comes from the Latin for "in one's own proper person." (See also PRO PER AND PRO SE.)

INTERROGATORIES

Written questions asked by one party in a lawsuit, which the opposing party must answer in writing.

INTERVENOR

A person who voluntarily participates in a lawsuit or other proceeding brought by other people. The court must approve the participation of the intervenor.

“IOLTA” or INTEREST ON LAWYERS TRUST ACCOUNTS

This is a method of funding for legal services to low income people and people with disabilities. It is also referred to as “Trust Fund”. It is administered by the State Bar Association. Disability Rights California receives IOLTA funding.

“IPP” or INDIVIDUAL PROGRAM PLAN

California's Lanterman Act provides that persons with developmental disabilities are entitled to “IPPs,” or Individual Program Plans that identifies the person's goals and the services and supports they will get to help them meet their goals.

This action plan helps provide community supports to prevent institutionalization of people with developmental disabilities.

“IRWE” or IMPAIRMENT RELATED WORK EXPENSES

This term is used under The Social Security Disability Insurance (SSDI) AND Supplemental Security Income (SSI) programs to refer to out-of-pocket expenses that are needed in order to be able to work. These expenses are deducted from earnings before certain benefit calculations are made.

JUDGMENT (JUDGEMENT)

The judge's final decision in a case.

LANTERMAN ACT

The California law which grants people with developmental disabilities an entitlement to services and supports.

LEVEL 14 GROUP HOME PLACEMENTS

Level 14 refers to a rate classification that reflects the staffing needs of an individual in Community Care Licensing Facilities. 14 is the highest rate available.

“LPS” or LANTERMAN-PETRIS-SHORT ACT

The Lanterman-Petris-Short Act is one of the main California laws governing services to and treatment of people with mental illness. It covers certain conservatorship proceedings as well as establishes that persons are statutorily entitled to individualized treatment that is least restrictive of their personal liberties.

MANIFESTATION DETERMINATION

The manifestation determination meeting is a meeting of the relevant members of the IEP team to determine whether a child with a disability may be expelled or have his placement changed for more than 10 consecutive school days. At the meeting, the IEP team reviews the relevant information from the student's file, including the IEP and any information from teachers and the parents and then decides two things: 1) was the behavior caused by, or did it have a direct and substantial relationship to, the child's disability, and 2) was the behavior the direct result of the school's failure to implement the IEP? If the team answers yes to either question, the child cannot be expelled and a placement change would require the consent of the parent or a hearing officer's order. If the IEP team members representing the school district believe the answer to both questions is “no” and the parent disagrees, the parent can appeal to a special education hearing.

MEDI-CAL (See Medicare)

Medi-Cal is California's program to pay for medical care for many low income people, especially families, children, people with disabilities, and the elderly. Medi-Cal is funded by the state and federal government. There are many Medi-Cal programs with different rules. Depending on which program you qualify for and how much money you make, Medi-Cal may pay for all your medical expenses or only part of them.

MEDICARE (See Medi-Cal)

Medicare is a federal health insurance program which provides benefits for eligible people. There are two parts to the program: "Part A" is hospital insurance and "Part B" is medical insurance. Medicare does not cover everything, and is not free for most people.

MOTION

An oral or written request made by a party to an lawsuit before, during, or after a trial asking the judge to issue a ruling or order in that party's favor.

“MSSP” or MULTIPURPOSE SENIOR SERVICES PROGRAM

The Multipurpose Senior Services Program (MSSP), operated by the California Department of Aging, provides case management and a range of services to assist seniors with disabilities to live independently.

NURSING FACILITY WAIVER

The Nursing Facility Waiver allows someone who is otherwise eligible for nursing facility services to instead receive services in the community. It is called a "Waiver" because it waives certain federal Medicaid rules in order to provide different or more services than the State offers to other Medicaid (Medi-Cal) eligible people.

“OCRA” or OFFICE OF CLIENT’S RIGHTS**“ODD” or OPPOSITIONAL DEFIANT DISORDER**

Oppositional Defiant Disorder (ODD) is a type of disruptive behavior disorder characterized by a recurrent pattern of defiant, hostile, disobedient, and negativistic behavior directed toward those in authority, including such actions as defying the requests or rules of adults, deliberately annoying others, arguing, spitefulness, and vindictiveness that occur much more frequently than would be expected on the basis of age and developmental stage.

OPINION

A judge's written explanation of a decision of the court or of a majority of judges. A dissenting opinion disagrees with the majority opinion because of the reasoning and/or the principles of law on which the decision is based. A concurring opinion agrees with the decision of the court but offers further comment. A *PER CURIAM* OPINION is an unsigned opinion “of the court.”

“OPR” or OFFICE OF PATIENT’S RIGHTS

ORDER TO SHOW CAUSE

A court order that makes someone go to court to explain to the judge why he or she did not follow the rules.

“PAAT” or PROTECTION & ADVOCACY FOR ASSISTIVE TECHNOLOGY

Beginning in 1998, DISABILITY RIGHTS CALIFORNIA received limited funds under the Protection and Advocacy for Assistive Technology (PAAT) Act to increase access to assistive devices and equipment.

“PABBS” or PROTECTION & ADVOCACY FOR BENEFICIARIES OF SOCIAL SECURITY

Under the Protection and Advocacy for Beneficiaries of Social Security (PABSS) Act, DISABILITY RIGHTS CALIFORNIA provides advocacy assistance to Beneficiaries of Social Security Disability or Supplemental Security Income (SSI), and to people who are working and are beneficiaries of Medicare, Medi-Cal or In-Home Supportive Services (IHSS) about securing or requiring employment.

“PADD” or PROTECTION & ADVOCACY FOR DEVELOPMENTAL DISABILITIES

In 1978, DISABILITY RIGHTS CALIFORNIA became the agency in California responsible for protecting and advocating for the rights of people with developmental disabilities under the federal Developmentally Disabled Assistance and Bill of Rights Act of 1978.

“PAIMI” or PROTECTION & ADVOCACY FOR INDIVIDUALS WITH MENTAL ILLNESS

The Protection and Advocacy for Individuals with Mental Illness Act of 1986 (PAIMI) extended Disability Rights California’s mandate to people with psychiatric disabilities.

“PAIR” or PROTECTION & ADVOCACY FOR INDIVIDUAL RIGHTS

The Protection and Advocacy of Individual Rights Act of 1992 (PAIR) extended Disability Rights California’s mandate to people with physical, learning and sensory disabilities.

“PASRR” or PREADMISSIONS SCREENING AND RESIDENT REVIEW

This is a federally mandated psychosocial, psychiatric and physical evaluation of persons admitted to nursing facilities or at risk of being placed in nursing facilities, funded by the Department of Mental Health and administered by independent contractors. It helps identify the need for specialized services and helps identify appropriate community placements rather than institutionalization.

“PATBI” or PROTECTION & ADVOCACY FOR TRAUMATIC BRAIN INJURY

Protection & Advocacy for Individuals with Traumatic Brain Injury (PATBI) assures that people with traumatic brain injury receive appropriate services and supports within their own communities. Disability Rights California promotes the rights of people with Traumatic Brain Injury (TBI) through advocacy assistance, education, and outreach to build TBI community awareness and support for inclusion. This program was established by federal grants from the Department of Health and Human Services.

“PAVA” or PROTECTION & ADVOCACY FOR VOTING ACCESS

Part of the Help America Vote Act of 2002 (HAVA) was the Protection and Advocacy for Voting Access (PAVA) program. PAVA expanded Disability Rights California’s ability to work for full participation in the electoral process for people with disabilities, including registering to vote, casting a vote and accessing polling places.

PRO BONO

Legal work done for free. From the Latin meaning "for the public good." Private firms often work with DISABILITY RIGHTS CALIFORNIA “*pro bono*” – without charge to clients.

PRO PER

People who present their own cases in court without lawyers (*See also IN PROPIA PERSONA and PRO SE.*)

PRO SE

People who present their own cases in court without lawyers (*See also PRO PER and PRO SE.*)

PROTECTIVE SUPERVISION

Protective supervision is supervision for individuals who, because of cognitive or mental impairments, need continuous supervision in order to prevent self-inflicted harm while living at home.

PURCHASE OF SERVICES (POS)

Purchase of Services (POS) dollars is money used by people served under the Lanterman Act. It allows the person with a developmental disability to directly pay service providers.

RIESE HEARING

A hearing to determine an individual's capacity to refuse administration of psychotropic medication.

REGIONAL CENTERS

Non-profit corporations which, under the provisions of the Lanterman Act, contract with the Department of Developmental Services to provide service coordination to individuals with developmental disabilities and assist people to obtain the supports they need. There are 21 RCs in California, each serving a different geographical area.

SECTION 8

Section 8 is a federally funded housing assistance program that provides to low income families. The vouchers allow the family to rent any apartment or house where the landlord will accept them, and pay a limited amount of money, generally 30% of the family's income. Section 8 is operated by local housing authorities and usually has a long waiting list.

SELF-DIRECTED SERVICES

"Self-Directed Services" is a new model for providing services to people with developmental disabilities that allows them to manage their own budgets and gives them more control over providers.

"SELPA" OR SPECIAL EDUCATION LOCAL PLAN AREA

The Special Education Local Plan Area (SELPA) is an administrative unit under California law that joins together one or more local school districts in a geographic area. This allows districts to share in the coordination, funding, personnel or other

administration of services for special education students. School districts with large populations usually stand alone as a single-district SELPA.

“SGA” or SUBSTANTIAL GAINFUL ACTIVITY

Substantial Gainful Activity is the term used by Social Security when evaluating earned income and “work activity” of individuals applying for or receiving disability benefits.

There are two criteria that determine SGA: (1) Substantial activity: work that involves doing significant physical or mental work, or a combination of both, that is productive and for profit. (2) Gainful work activity: work performed for pay or profit; work of a nature generally performed for pay or profit; or work intended for profit, whether or not a profit is realized.

This is a monthly amount that is specified by Social Security for individuals who are employed or self-employed. SGA may be determined by work done or hours worked in a month. Monthly SGA earnings limits are adjusted annually based on fluctuations in the national average wage index.

“SRO” OR SINGLE ROOM OCCUPANCY

Single room occupancy hotels, or residency hotels, provide single room apartments with shared bathrooms for low income individuals. This is an important source of housing for people with disabilities who live on fixed incomes.

“SSI” OR SUPPLEMENTAL SECURITY INCOME

Supplemental Security Income (SSI) is a cash benefit program for low-income people 65 and over and for people of any age, including infants and children, who are blind or have disabilities. CAPI is a similar program for immigrants who do not qualify for SSI.

STATUTE

A law passed by the United States Congress or a state legislature.

STATUTE OF LIMITATIONS

A law that says how much time you have to file a lawsuit after something happens.

STAY

An order by a court that stops any further action in the case for a certain period of time.

SUMMARY JUDGMENT

When the judge decides a case without going to trial. The decision is based on the papers filed by both sides.

TEMPORARY RESTRAINING ORDER (TRO)

A Temporary Restraining Order (TRO) is a court order requiring immediate action. It is an emergency remedy of brief duration issued by a court only in exceptional circumstances, usually when immediate or irreparable damages or loss might result before the opposition could take action.

“TBS” or THERAPEUTIC BEHAVIORAL SERVICES

Therapeutic Behavioral Services (TBS) is a Medi-Cal mental health service. It provides short-term one-to-one assistance to children or youth under age 21 who have behaviors that are too hard for their families or foster placement to handle, such as tantrums, assaultive behavior or destruction of property. TBS can be provided to children at home, in a group home, in the community, during evening and weekends, and at other times and places as needed. The county mental health plan develops a behavior intervention plan and assigns a trained behavior aide to a child/youth for as many hours per day as needed. The county may also authorize another mental health organization to develop the plan and assign the behavior aide.

TRANSCRIPT

A record of everything that is said in a deposition, hearing or trial. Transcripts may be prepared from tape recordings or may be done by certified court reporters who use special equipment to make a word-for-word record of the proceeding.

“TWP” or TRIAL WORK PERIOD

A “Trial Work Period” under Social Security Disability law allows people with disabilities to test their ability to work for at least 9 months without reducing their Social Security Disability Income. During the TWP, an individual will receive full SSDI benefits regardless of how high their earnings might be, so long as they have a disability.

UNRUH CIVIL RIGHTS ACT

This law provides protection from discrimination by all business establishments in California, including housing and public accommodations, because of age, ancestry, color, disability, national origin, race, religion, sex, or sexual orientation.

WRIT

A court order that says certain action must be taken.

WRIT OF MANDATE

A court order to a government agency, including another court, or to a private entity requiring it to follow the law by correcting its prior actions, ceasing illegal acts, or taking certain actions.

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