

The new eligibility restrictions would have terminated ADHC services for approximately 15,000 current participants, all of whom had been determined to need ADHC to avoid hospitalization or other institutionalization without ADHC. Plaintiffs' legal claims as to both the reduction in days and the new restrictions on eligibility included violations of the Americans with Disabilities Act and Section 504 of the Rehabilitation Act; the Medicaid Act; and the U.S. Constitution. The Court found that Plaintiffs had shown a likelihood of success on all of their legal claims and that Plaintiffs and putative class members would be irreparably harmed if an injunction were not granted.

Citing its earlier order in *Brantley*, the Court once again ruled that "the reduction or elimination of public medical benefits is sufficient to establish irreparable harm to those likely to be affected by the program cuts." Moreover, the Court noted that "Given the purpose of the new law, it is axiomatic that in order to have any significant impact on the State's budget, the curtailment of ADHC services arguably will be dramatic. As such, it is somewhat disingenuous for Defendants to downplay the impact of the proposed changes by suggesting that only "some" individuals will lose their ADHC services....As this Court recognized previously, Plaintiffs need not wait until the harm is actually suffered before seeking injunctive relief."

The State has appealed the decision to the Ninth Circuit Court of Appeals, Case No. 10-15635.

Benefits Goal 2, Obj. A; Goal 3, Obj. A
Anti-Discrimination Goal 1, Obj.A

Disability Rights California Staff: Elissa Gershon, Elizabeth Zirker, Kim Swain, Dara Schur.

Other Counsel: AARP Foundation Litigation, National Senior Citizens Law Center, National Health Law Program, Howrey LLP.

Grant/Funding Source(s): PAIR/PAIMI

Administrative Law Judge Waives \$69,706 SSDI Overpayment

D.E., a person with Schizophrenia and Stage Four Pancreatic Cancer, is a former SSDI recipient who currently receives SSI and, since 1985, has worked intermittently as her adult son's In-Home Support Services provider. D.E. reported her employment to SSA, who assured her that she

justifying her termination from PACE. Disability Rights California also provided compelling evidence that M.S.'s health condition met 9 out of 10 eligibility criteria for participation in PACE. Despite strong evidence in favor of M.S., the administrative law judge (ALJ) focused on the lack of clarity within the PACE regulations and held that M.S.'s conditions taken as a whole did not rise to a level that met the need for out-of-home placement with 24-hour supervision or observation. We are currently considering whether to appeal the decision.

As a result of this hearing and Disability Rights California's advocacy efforts before it, we have taken an active role with other public interest organizations to provide training and guidance to ALJs on the eligibility rules that govern PACE. The goal is to provide ALJs with a proper understanding of the complicated and ambiguous PACE regulations so that future PACE termination cases can be decided on the proper level of care criteria.

In the meantime, Disability Rights California is assisting M.S. in obtaining alternate services including through the Adult Day Health Care Program.

Benefits Goal 2, Obj. A

Disability Rights Staff: Elizabeth Zirker, Jung Pham

Grant/Funding Source(s): PAAT

County IHSS Office Terminated Services for D.G. in Violation of a Federal Court Order

D.G., an In-Home Supportive Services (IHSS) recipient, was terminated from the program in November 2009. D.G. did not receive a termination notice of action (NOA) and only found out about the termination when his provider told him that she had received a letter saying D.G. was ineligible for services. D.G. appealed and contacted Disability Rights California, with the help of an advocate from the Independent Living Center Berkeley (ILCB), to request help preparing for the administrative hearing.

Disability Rights California spoke with the provider and contacted the program director for the county IHSS program to inform the director that D.G. was not provided adequate notice of his termination. Disability Rights California also demanded that the program director confirm whether D.G. was a class member of the *V.L. v. Wagner* lawsuit, which enjoined the

state's proposed IHSS reductions. D.G. was found to have been terminated in violation of this order and his services were immediately reinstated.

Disability Rights California coordinated with the program director and D.G.'s provider for additional time-sheets and retro-active payment so that D.G. could pay for the two months that his provider performed IHSS services for D.G. without compensation. The ILCB withdrew its IHSS appeal on D.G.'s behalf due to the favorable outcome. Disability Rights California asked the program director to notify it of additional terminations within the county system that would put the state in violation of the court order.

Benefits Goal 2, Obj. A

Disability Rights Staff: Jung Pham

Grant/Funding Source(s): PAIR

Client Continues on No Share of Cost Medi-Cal

M.C is a person with physical disabilities who for the past two years had been receiving no share of cost Medi-Cal. When her son turned 18 years old, the county sent M.C. a notice of action informing her that she now had a monthly \$200 Medi-Cal share of cost. M.C. contacted Disability Rights California for help.

Disability Rights California was able get M.C. back on a no share of cost program by showing the county that M.C.'s countable income qualified for her for the Medi-Cal Aged & Disabled Federal Poverty Level program.

Benefits Goal 2, Obj. A

Grant/Funding Source(s): PAIR

After More Than a Year, A.D. Finally Gets Her Retroactive Social Security Check

See Previous Regional Office Report, Issue No. 55

Disability Rights California successfully represented A.D at an SSA hearing regarding an overpayment. The administrative law judge (ALJ) agreed that her work activity was an unsuccessful work attempt and ordered her

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 Regional Centers 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 that 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.

TABLE OF CONTENTS

ABUSE AND NEGLECT	1
Investigations Unit Releases Report Finding Abuse by Nursing Home Staff Not Treated As Crimes	1
BENEFITS	3
Harry Cota et. al. v. David Maxwell-Jolly, Department of Health Care Services.....	3
Administrative Law Judge Waives \$69,706 SSDI Overpayment.....	4
Merced County Restores Protective Supervision to Monolingual Spanish Speaker.....	6
PACE Termination Case Reveals Potential Program-Wide Attempts to Discharge Clients Based on Erroneous Discretionary Standards.....	6
County IHSS Office Terminated Services for D.G. in Violation of a Federal Court Order.....	7
Client Continues on No Share of Cost Medi-Cal	8
After More Than a Year, A.D. Finally Gets Her Retroactive Social Security Check.....	8
A PASS Participant Gets His Certificate of Graduation	9
J.R. Gets His Income Tax Refund Back After S.S.A. Illegally Garnished It.....	10
Client's Overpayment Issue is Resolved	11
DISCRIMINATION	11
Favorable Settlement Reached In Housing Discrimination Case.....	11
Catholic Charities Agrees to Train Its Staff Regarding the Rights of People With Disabilities to Use Service Animals.....	12
Clubhouse Agrees to Admit Mental Health Client's Service Dog	12
Disability Rights California Helps Client with Vision Disability Gain Access to Cable TV	13
Disability Rights California Assists University Student Get Re- Admitted Back into Program from Suspension After Repeated Refusals	13
Disability Rights California Assists Client in Negotiating Changes in Contract with Residential Services Provider as an Accommodation for her Psychiatric Disabilities.....	14
Disability Rights California Assists Client to Obtain an Apartment with a Private Bathroom as a Reasonable Accommodation	15

Client in Low Income Senior Housing Allowed to Use Her Motorized Scooter.....	16
Disability Rights California Negotiates with Department of Mental Health to Accommodate Transgender Female State Hospital Resident with Facial Hair Removal Cream.....	16
Eviction Prevented Following Demand Letter to Federally Subsidized Landlord	17
Comments Submitted on Proposed DFEH Regulations.....	18
EDUCATION.....	19
2 Year-Old Receives Compensatory Services Due to IRC Failure to Provide Aid Paid Pending	19
Youth in Juvenile Hall Receives Appropriate Special Education and Mental Health Services	20
Internal School District Complaint Filed to Expunge Special Education Student’s Inappropriate Discipline Record.	21
LANTERMAN	22
64 Year-Old Regional Center Client Keeps Attendant Care Services	22
Regional Center Client Avoids Eviction, Placed in Appropriate Group Home.....	23
Disability Rights California Staff Obtain In-Home Behavioral Services and Respite on behalf of 4-Year-Old Regional Center Client.	25
Eviction Prevented Following Demand Letter to Federally Subsidized Landlord	25
Disability Rights California Successfully Advocates on Behalf of Child to Save his in-home Nursing Services	25
Disability Rights California Successfully Advocates on Behalf of Child to Maintain Additional Nursing Services.....	26
MENTAL HEALTH	26
Disability Rights California Files Class Action Lawsuit Challenging Cuts to Out-patient Mental Health Services in Sacramento County.....	26
San Diego Medi-Cal Recipient Wins Additional Psychotherapy Sessions.....	28
Disability Rights California Negotiates with Department of Mental Health to Accommodate Transgender Female State Hospital Resident with Facial Hair Removal Cream.....	29

California Supreme Court Upholds Attorney’s Authority to Waive Client’s Rights in Conservatorship Hearings	29
Disability Rights California Participates in California Mental Health Advocacy Conference Panel on Eliminating Stigma and Discrimination in the Mental Health System	30
VOTING	31
Disability Rights California Testifies before the Los Angeles City Council Regarding Vote by Mail Only elections	31
Disability Rights California Steps Up Its Efforts to Ensure Poll Site Accessibility Compliance in Los Angeles County	31
El Dorado County Agrees to Discontinue Using Poll Sites That Were Deemed Inaccessible Based on Recommendation by Disability Rights California	32
Disability Rights California Provided Training on Voting Rights to Hmong Americans with Developmental Disabilities	33
Disability Rights California Holds Voting Training for Approximately 25 People with Cerebral Palsy in Oakland	33
GLOSSARY OF SELECTED TERMS.....	34