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

Issue 66 — Work as of September 30, 2011

This report represents a summary of the work Disability Rights California staff has reported from August 1, 2011 through September 30, 2011. Many thanks to those who provided the material to make this report possible.

ABUSE AND NEGLECT

Disability Rights California Files Medical Board Complaint Against Nursing Home Doctor Over Patient's Death

While monitoring conditions at a skilled nursing facility, the Investigations Unit (IU) was notified by a confidential informant of the death of a resident. Although the facility initially denied that a death had occurred, it eventually disclosed the resident's name after the IU asserted DRC's access authority. The IU later obtained the resident's clinical records and the coroner's investigation and autopsy.

After reviewing the records, the IU determined that the resident, A.M., a thirty old man who was paraplegic, had died from complications resulting from multiple, minimally treated, pressure ulcers. Except for a brief period when he was discharged for urgent care, A.M. was under the continuous care of the attending physician for many other residents at the facility. Despite the presence of these multiple severe pressure sores, the doctor only ordered daily wound care by nursing level staff and did not order a consultation with a wound care specialist until a few weeks before A.M.'s death. Over the following months, A.M.'s decubiti continued to deteriorate

to the point that A.M. had gaping deep sores that festered down to the bone.

DRC consulted with a world renowned expert in the area of pressure ulcer management and plastic and reconstructive surgery who found that the treating physician was negligent in his failure to recognize the severity of A.M.'s ulcers and immediately refer him to a specialist in pressure ulcers and wound care.

Based on this information, the IU filed a complaint with the California Medical Board, alleging that the treating physician had provided substandard care to A.M., and requesting a full investigation and necessary disciplinary sanctions.

Abuse & Neglect, Goal 1, Objective A.

Disability Rights California Staff: Pamila Lew and Leslie Morrison

Grant/Funding Source(s): PAIR

Adult Protective Services Substantiates Consumer Complaint, While District Attorney's Office Initiates Investigation into IHSS Fraud by Room and Board Operators.

J.V., the resident of a room and board who is legally blind and HIV positive, contacted the IU to complain about the "squalid condition" in which he was living. The operator of the home was refusing to give him his daily meals and he had no other source of food. The operator had refused to repair broken kitchen appliances and physical damage to the home. J.V. was concerned that the unclean and unsafe conditions would exacerbate his depleted medical condition.

The operator of the home was also J.V.'s In-Home Supportive Services (IHSS) provider and was paid under the program to provide meal preparation, laundry, food and grocery shopping, prosthesis care, and medical transportation. J.V. alleged that the provider was not performing any of those services.

J.V. asked the IU to assist him by filing a complaint with Adult Protective Services (APS) and to investigate the failure of the operator to provide his IHSS. J.V. was relocated to another room and board home during the pendency of the APS investigation, which eventually confirmed J.V.'s allegations.

The IU contacted IHSS about J.V.'s claim that the operator was not providing the services for which he was being paid, a situation that repeated at J.V.'s new room and board. The IU's investigation revealed that both IHSS providers were charging a higher rate of rent for providing meals and transportation to medication appointments and then charging IHSS for the same services. IHSS has referred the matter to the District Attorney's Fraud Division.

Abuse and Neglect, Goal 2, Objective A.

Disability Rights California Staff: Jung Pham and Ricardo Jauregui
Grant/Funding Source(s): PAIMI

Investigation of Abuse at High School Special Education Class

The IU was notified about a classroom aide physically abusing A.B., a 20 year-old high school student with autism. Witnesses saw the aide shove A.B. into his chair and then slam his head down onto the desk. The aide then forced his hands behind his neck and head and held him in that position for a few minutes. The abuse was witnessed by two behavioral consultants who were working with A.B. on the day of the incident.

The two witnesses notified the classroom teacher about what they observed but did not report the incident as required by the Elder and Dependent Adult Civil Protection Act (the Act). The Act requires that individuals providing care and services for dependent adults report instances of abuse and neglect immediately to Adult Protective Services and/or law enforcement. Reporting the incident to the teacher or school administration does not satisfy the mandated reporter's legal obligation under the Act.

When A.B.'s mother found out about the incident several days later, she notified law enforcement, which later conducted an investigation. The District Attorney declined to bring criminal charges against the classroom aide but the school district dismissed her from employment. A.B. was moved into another classroom and is doing well. The IU will be training all

staff at the behavioral services organization regarding their mandated reporting duties under the Act.

Abuse and Neglect, Goal 2, Objective A

Disability Rights California Staff: Ricardo Jauregui, Leslie Morrison

Grant/Funding Source: PADD

BENEFITS

Disability Rights California Succeeds in Obtaining Supports to Allow Client to Remain in Community

O.M. is a man in his mid-twenties who has received twenty-four hour nursing care all his life due to his multiple disabilities, including cerebral palsy and seizure disorder. He has lived for many years in a home that he shares with several other individuals with significant disabilities. He lives close to his family and has frequent contact with them. Because of his multiple and complex medical needs, continuity of care by nurses who are familiar with his needs is vital to his health and well-being. His nursing care is funded by the Medicaid Home and Community-Based Services Intermediate Care Facility-Continuous Nursing Care waiver (ICF/DD-CNC), a waiver that is only available to people who need twenty-four hour nursing care.

O.M. received a notice of action (NOA) from the state indicating that he no longer needed twenty-four hour nursing care, and that he would have to move from his long-time home to a placement that provides only eight hours per day of nursing care. The state said he would not have to be institutionalized, but his family was worried that the only realistic option for him was placement in a developmental center.

The Office of Clients' Rights Advocacy and Disability Rights California represented O.M. in a lengthy administrative hearing. The Administrative

Law Judge ruled in favor of O.M. and ordered the state to rescind its NOA and continue to provide O.M. with ICF/DD-CNC services.

Benefits Goal 3, Objective A

Lanterman Goal 1, Objective A.

Disability Rights California Staff: Yulahlia Hernandez; Annie Breuer; Gail Gresham; Dale Mentink; Sujatha Jagadeesh Branch

Grant/Funding Source: PADD

Disability Rights California Obtains Employment Training for Client

G.L. is a client of the Department of Rehabilitation (DOR) who wants to become a nurse. She had a Plan for Achieving Self Support (PASS) through Social Security to help her pay for tuition, books, supplies, and transportation, in order to attend prerequisite courses for the nursing program. However, her PASS was suspended when she was placed on a waiting list for the nursing program. When G.L. learned that she would be taken off of the waiting list, she contacted the Social Security PASS Cadre to resume her PASS plan so that she could complete a new pre-requisite course and have her car repaired in order to attend class. Instead, the PASS Cadre indicated that he intended to terminate G.L.'s PASS.

Disability Rights California contacted the PASS Cadre on G.L.'s behalf, who explained that since the PASS had been in suspension for over twelve months, he was allowed to terminate it. He provided a copy of the notice that was sent to the G.L. terminating her PASS.

Disability Rights California explained to G.L. that a second PASS for the same work goal could be approved if an explanation was provided as to why she was not working in the occupational goal of a previous PASS. We also advised that 1) she could submit a new plan with the same goal and say that she could not complete the prior goal because she was put on a wait list, 2) that DOR could pay for tuition, books, supplies, and transportation, and 3) that the PASS and DOR services could both be used to pay for different items of her work goal. G.L. had been unaware of these DOR services.

G.L. met with her DOR counselor who agreed to pay for tuition, books and supplies. DOR deferred assisting with transportation pending Social Security's approval of her PASS to cover transportation. G.L. was referred to the local benefits planner to assist her with her PASS.

Benefits, Goal 1, Objective A

Disability Rights California Staff: Aleyda Toruno

Grant/Funding Source(s): PABSS

Disability Rights California Obtains Funding to Allow Client to Pursue Employment Goal

M.K. is a person with visual impairments who has an Associate of Arts degree in baking and pastry making. M.K. wanted to attend a local private art school to receive a Bachelor of Arts degree in culinary management to advance her career. DOR agreed to pay the community college rate for the private school and M.K. initially agreed to pay the difference in tuition by using financial aid and a PASS. When those resources became unavailable, she contacted Disability Rights California to help her amend her Individualized Plan for Employment (IPE) to ask DOR to pay a higher tuition rate than the community college rate for the private school.

Clients of DOR are required to use the "least expensive educational institutions" in the following order of preference: (a) For the first two years, a community college or other equivalent resource; (b) For the first two years, a state college or university if the overall cost to the Department will be equal to or less than a community college; (c) After the first two years, a state college or university; or (d) A private school when: (1) the private school is essential to the success of the client's work plan; or (2) the overall cost to the Department will be equal to or less than the costs of a public school; or (3) the client agrees to pay all additional costs for training in a private school when the Department has determined that a public institution is sufficient to meet the need of the client." 9 C.C.R. §7156

Disability Rights California successfully negotiated on M.K.'s behalf and DOR agreed to amend the IPE to provide funding for M.K.'s uniform, shoes, a talking digital scale, a talking candy thermometer, and

transportation. DOR also agreed to pay for the private school at the University of California rate.

Benefits, Goal 1, Objective A

Disability Rights California Staff: Aleyda Toruno

Grant/Funding Source(s): PABSS

Client's SSDI Overpayment is Waived

E.K. is a person with a spinal cord injury who receives Social Security Disability Insurance (SSDI) benefits. While working, he incurred an SSDI overpayment in the amount of \$10,780, despite the fact that he complied with the Social Security rules on reporting wages. Disability Rights California assisted the E.K in preparing a request that Social Security waive the overpayment because it was not his fault that he was overpaid, and it would be a hardship to pay it back. Social Security agreed to waive the overpayment.

Benefits, Goal 1, Objective A

Disability Rights California Staff: Crystal Padilla

Grant/Funding Source(s): PABSS

DISCRIMINATION

Court Rules in Disability Rights California's Favor in Housing Case

Siebert v. M.Z. (Superior Court of El Dorado County, Case No. PC 2009023, the Honorable Nelson Keith Brooks)

See ROR Fall 2009 for background.

M.Z. is an individual with multiple disabilities and uses a motorized wheelchair and the services of a full-time caregiver. M.Z. lives in the lower unit of what was her family home, pursuant to a lifetime occupancy agreement that her family established in an effort to ensure that she would have an affordable, accessible place to live. Siebert purchased the property with full knowledge of the lifetime occupancy agreement and

contractually agreed to its terms. However, Siebert has made repeated efforts to unlawfully evict M.Z. and her caregiver. For example, following a sewage back-up in M.Z.'s unit in 2008, Siebert remodeled the bathroom, removed the existing roll-in shower, and installed an inaccessible shower. Siebert brought suit against M.Z. to force her to move out of the property. Disability Rights California counter-sued, claiming disability discrimination.

In the first phase of the trial, the court ruled in M.Z.'s favor and held that Siebert is obligated to remodel M.Z.'s bathroom to provide a roll-in shower at the premises for M.Z.'s use, that Siebert could not unilaterally impose rules or regulations that fall outside the terms of the lifetime occupancy agreement, that M.Z. is not required to obtain insurance for her service dog, and that whether she is able to continue residing at the unit is her decision to make and not for the Siebert to decide. Phase two of the trial will take place at the end of March on M.Z.'s affirmative discrimination claims.

Discrimination, Goal 2, Objective A

Disability Rights California Staff: Stuart Seaborn, Sean Rashkis and Andrew Mudryk

Other Counsel: Herb Whitaker and Marina Sideris of Legal Services of Northern California

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

DFEH Issues New Procedural Regulations That Incorporate Many DRC Suggestions

See previous ROR Issue Number 65.

On September 7, 2011 the Office of Administrative Law approved the California Department of Fair Employment and Housing's (DFEH) new procedural regulations that govern how it will handle complaints of discrimination against employers, housing providers, and places of public accommodations under California's Unruh Act, Fair Employment and Housing Act, Ralph Civil Rights Act, Disabled Persons Act, and other civil rights acts within its jurisdiction. The new regulations will be effective October 7, 2011. Disability Rights California, along with the Law Foundation of Silicon Valley, California Rural Legal Assistance, and the National Housing Law Project, submitted comments and testified at a public hearing on the first draft in May 2010, the second draft in December 2010,

and the final draft in July 2011. The final version incorporated many of the suggestions that Disability Rights California made in its comments. For example, DFEH: (1) Narrowed its right to request medical records from complainants to those records directly related to and necessary for the complaint and increased the confidentiality protections afforded those records; (2) Explicitly limited the circumstances under which DFEH can refuse to accept a complaint for investigation; (3) Made explicit its commitment to communicate with complainants' attorneys (such as DRC) at critical junctures in its investigations; and (4) Clarified that Fair Housing organizations have standing to file complaints with the Department. The new regulations provide greater procedural clarity to individuals filing discrimination complaints in California.

Discrimination Goals 2 and 3, Objective B

Disability Rights California Staff: Fred Nisen, Stuart Seaborn, Rosa Plasencia, Debbie Yen and Dara Schur

Other Counsel: Navneet Grewal of the National Housing Law Project, Kim Pederson of the Law Foundation of Silicon Valley and Ilene Jacobs of California Rural Legal Assistance

Grant(s)/Funding Source(s): PADD, PAIMI, PAIR, Unrestricted

Disability Rights California's Advocacy Allows Client to No Longer be A Prisoner in His Own Home

J.F. has a mobility impairment that prevents him from using the stairs to his apartment as he was once able to do. He repeatedly asked his landlord for permission to install a stairlift, at his own expense, that would enable him to come and go from his apartment. The landlord denied each request. As a result, J.F. was trapped in his apartment, unable to leave to attend critical medical appointments or to accomplish day-to-day tasks such as going to the bank, getting a haircut, or visiting his family.

On September 23, 2011, Disability Rights California wrote a letter to J.F.'s landlord regarding his request for permission to install the stairlift. The letter explained that the federal Fair Housing Act prohibits housing providers from discriminating against qualified individuals with disabilities, which includes "a refusal to permit, at the expense of the handicapped person, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises." 42 U.S.C. § 3604(f)(3)(A).

The letter also explained that California state law likewise prohibits housing discrimination against people with disabilities. As a result, Client was entitled to make modifications that are reasonable and necessary to afford him equal opportunity to use and enjoy his dwelling unit.

Upon receiving the letter, J.F.'s landlord agreed that he could install the stairlift. The stairlift was installed on October 5, freeing J.F. to once again leave his apartment to run errands, play with his granddaughter, attend medical appointments, and perform other tasks of daily life.

Discrimination, Goal 2, Objective A

Disability Rights California Staff: Autumn Elliott and Kevin Bayley
Grant(s)/Funding Source(s): PAIR

Disability Rights California Assists Homeless Individual in Maintaining her Participation in a Residential Substance Abuse Treatment Program.

C.J. participates in a county-run program that provides subsidized residential treatment services to people who are homeless and have mental health and substance abuse disabilities. She came to Disability Rights California seeking advice about the types of conditions that the program could place on her housing subsidy, and help with negotiating a new agreement with her program. Disability Rights California staff provided C.J. with advice about her legal rights, and helped her to negotiate an agreement that allowed her to keep her housing subsidy and maintain her participation in the program.

Discrimination, Goal 2, Objective A

Disability Rights California Staff: Pamela Cohen
Grant(s)/Funding Source(s): PAIMI

Disability Rights California Assists Client to Obtain a Two-Bedroom Section 8 Voucher As a Reasonable Accommodation

C.A. has post-traumatic stress disorder which causes him to have nightmares and insomnia. He and his wife recently moved and requested that they be able to keep the two-bedroom voucher they had in their prior locale due to C.A.'s need to sleep in a separate bedroom. The local Public Housing Agency (PHA) denied the request and claimed that the two-

bedroom voucher that had been provided to them was an administrative error.

Disability Rights California contacted the PHA and obtained additional medical documentation of the need for the accommodation to satisfy the PHA's concerns. The PHA subsequently granted the accommodation allowing C.A. and his wife to remain in their two-bedroom unit.

Discrimination, Goal 2, Objective A

Disability Rights California Staff: Ann Menasche

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

Disability Rights California Objects to Proposed Problematic Class Action Settlement Concerning Sidewalks in Los Angeles

Carter, et al. v. City of Los Angeles (Superior Court of Los Angeles, Consolidated Case # BC 363305, the Honorable Emilie Elias)

On September 7, 2011, DRC objected to the proposed settlement in the consolidated cases of *Carter v. L.A.* and *Fahmie v. L.A.* regarding the accessibility of the City's sidewalks. The two main problems with the proposed agreement are that requires the City to spend up \$4 million per year on curb cuts for 25 years, considerably less than what the City already spends; and that it waives statutory damages for class members. The class counsel reached a similar agreement in *King v. City and County of San Francisco*, which we objected to, and was rejected by the court.

The Disability Rights Education and Defense Fund and the Legal Aid Society - Employment Law Center joined in our objections. The court held a fairness hearing on October 20, at which Disability Rights California staff testified, and we expect a decision soon.

Discrimination, Goal 3, Objective A

Disability Rights California Staff: Fred Nisen, Rosa Plasencia, Autumn Elliott

Other Counsel: Linda Kilb from the Disability Education and Defense Fund and Claudia Center from the Legal Aid Society – Employment Law Center.

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

Disability Rights California Files Suit Against San Diego Rescue Mission Challenging Discriminatory Practices

Jane Doe et al. v. San Diego Rescue Mission et al. (U.S. District Court for the Southern District of California, Case No. 11 CV 1829 H NLS, the Honorable Nita Stormes)

J.D. is a woman with psychiatric and physical disabilities, including Post-Traumatic Stress Disorder, Bipolar Disorder and debilitating pregnancy-related complications. She asked Disability Rights California to represent her with regard to the discrimination she experienced while she and her then one-year old son were residing at the San Diego Rescue Mission's Women and Children's Shelter Program in 2009. The Mission refused to reasonably accommodate her disabilities by failing to allow her to lie down and snack as needed; to allow her to attend classes on a reduced schedule; and to allow her to travel with her sister to medical appointments. The Mission then wrongfully evicted Jane Doe and her son into the streets right before the Christmas holidays. These difficult circumstances forced Jane Doe to eventually return to her abusive husband in order to avoid homelessness.

On August 16, 2011, Jane Doe and her minor son filed suit against the Mission in U.S. District Court for the Southern District of California, alleging that the Mission's discriminatory actions deprived them of critically needed shelter and the opportunity to be eligible for and obtain a bed in the Mission's federal funded Transitional Housing Program. The Complaint further alleged that the Mission's actions were based on Jane Doe's disabilities, familial status, sex, marital status and/or religion in violation of federal and state civil rights laws. The Complaint includes causes of action under Section 504 of the Rehabilitation Act; the Fair Housing Act, the California Unruh Act, the California Fair Employment and Housing Act and the California Disabled Person's Act.

Discrimination, Goal 2, Objective A

Disability Rights California Staff: Ann Menasche, Bernadette Bautista, Maria Iriarte and Dara Schur

Other Counsel: Amy Vandeveld of the Law Offices of Amy Vandaveld.

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

Disability Rights California Assists Client Obtain More Time to Clean Apartment as a Reasonable Accommodation and Prevent Eviction

B.J. has a psychiatric condition that causes her to hoard items and had, according to the landlord, rendered her apartment a health and safety hazard. Client's landlord threatened her with eviction for failure to meet a deadline to clean up her apartment.

Disability Rights California contacted the landlord and obtained a six month extension and a second sixty day extension to allow B.J. additional time to obtain the help she needed to de-clutter her unit. Disability Rights California also found resources that could assist B.J. with this endeavor and was able to convince her to hire the help that she needed.

On October 10, 2011, Disability Rights California spoke to the manager and confirmed that the unit had indeed finally passed inspection.

Discrimination, Goal 2, Objective A

Disability Rights California Staff: Ann Menasche

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

LANTERMAN

Disability Rights California Monitors Class Action Settlement regarding Community Integration for People with Developmental Disabilities

Capitol People First et al. v. Department of Developmental Services et al.

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

See DOL Report, Spring 2002 for a complete summary of the case.

In 2002, Disability Rights California filed this class action lawsuit to seek relief for the more than 7,000 Californians with developmental disabilities who were unnecessarily placed in state developmental centers and other

large private facilities. On April 24, 2009 Judge Robert Freedman granted final approval of a settlement agreement that affirmed the right of class members to have information and choice about community living options. Over the past year, class counsel has monitored the terms of the agreement, which includes continued funding to help people living in institutions move into the community, new funding for regional center case workers to attend IPP meetings of people who live in developmental centers, and training to state employees about community living options. Class counsel also developed and distributed over 1,000 posters to public and private institutions regarding class members' rights to live in the community and collaborated with the Office of Clients' Rights Advocacy to develop a community living options training. Recently, the focus of the monitoring has been to request and review a random sample of the files of class members who live in large private institutions to ensure that defendants are meeting their settlement obligations.

Background on the case, including legal documents and press coverage 2002-2009, can be read at <http://www.disabilityrightsca.org/advocacy/cpfvdds/index.htm>

Lanterman, Goal 2, Objective A

Disability Rights California Staff: Barbara Dickey, Sujatha Jagadeesh Branch, Jonathan Elson, Elissa Gershon, Ellen Goldblatt, William Leiner, Maggie Roberts, Dara Schur, Kim Swain

Other Counsel: William Bates, Chris O'Connor, Jeanne Sheahan, Bingham McCutchen; Michael Schwartz, Richard Mulloy, Nikki Wyll, Aaron Wainscott, DLA Piper

Grant/Funding Source(s): PADD, PAAT, Equal Access, IOLTA Trust Fund

E.V. Becomes Eligible for Regional Center Services After Being Denied for Thirteen Years

E.V. received early intervention services through the regional center from birth to age three as a child who was at risk of having a developmental delay. E.V. had been found to have global delays in the areas of language, gross and fine motor skills, cognition, and social functioning. At the age of three, the regional center determined that E.V. was not eligible for services under the Lanterman Act despite the fact that he continued to experience significant delays in all areas.

As E.V. transitioned into public school, he continued to struggle in all areas of learning and was diagnosed as having a learning disability. When E.V. entered middle school, his inability to manage his behaviors led him to become judicially involved and he eventually ended up in juvenile hall. He was also diagnosed with various mental health disorders and eventually was placed at a residential facility through his special education program. Through the years, his grandmother, mental health workers, social workers, public defenders, and probation officers all suspected that E.V. had a developmental disability and referred him to the regional center. Despite numerous evaluations that showed that E.V.'s IQ and adaptive skills fell in the range of mild to moderate mental retardation, including evaluations conducted by the regional center, he was continuously denied regional center eligibility.

Most recently, E.V. was denied eligibility for regional center services on July 12, 2010 on the basis of an assessment that concluded that he had borderline intellectual functioning and a learning disability. On July 19 and 27, 2011, Disability Rights California represented E.V. at an administrative hearing. The regional center's position at hearing was that E.V. does not have a developmental disability, but instead has a learning disability and mental health diagnoses. At hearing, Disability Rights California presented the testimony of a psychologist with expertise in both developmental and psychiatric disabilities who works as a regional center vendor psychologist and has also worked with youth in the juvenile delinquency system. Disability Rights California's expert testified that although E.V. may have some mental health diagnoses, he clearly has the developmental disability of mental retardation and his developmental disability constitutes a substantial disability for him. In addition, E.V.'s grandmother also provided testimony as a lay witness and shared her experience with E.V. as a small child and adolescent and why she believed that he has a developmental disability.

On August 31, 2011, the Office of Administrative Hearings found E.V. to be eligible for regional center services as a person with mental retardation and in the alternative, that he was eligible for services under the fifth category, as a person with a condition closely related to mental retardation and that also requires treatment similar to a person with mental retardation.

Disability Rights California plans to continue to represent E.V. through the Individual Program Plan process to ensure that he receives the appropriate supports and services including placement so that he can transition back into the community out of the residential facility.

Lanterman, Goal 3, Objective A

Disability Rights California Staff Carmen Varela & Connie Huang Chu

Other Counsel: N/A

Grant/Funding Source(s): EA

After Seven Years in an Institution, T.J. Moves Home

Seven years ago, after an adverse reaction to psychotropic medications, T.J. was forced to move from the community to a state-operated institution. The move was supposed to be temporary. However, even after the medications were discontinued and his condition stabilized, neither the institution nor the regional center developed a transition plan for T.J. to return to his community.

T.J. needed a good transition plan because he wanted to be closer to his family, who drive 200 miles every weekend to visit him. T.J. also needed a good transition plan because his disability makes him particularly sensitive to factors inherent in institutional settings, like crowds, loud noises, and noxious odors. These factors would also sometimes trigger involuntary behaviors from T.J., such as biting himself or grabbing others. Even though these behaviors were involuntary, the staff at the institution would sometimes force T.J. into restraints to make him stop. This was traumatic for T.J. and oftentimes made things worse.

In 2008, T.J.'s family began researching community living options on their own. They learned about Supported Living Services, which is a type of service where T.J. could live in a home of his own with the services and supports that meet his needs. With Supported Living Services, T.J. would also have more choices about how he spends his day, could live within minutes from his family, and would not have to remain in a harmful institutional environment. T.J.'s family found a good provider who met with T.J. and developed a plan.

The regional center, however, refused to fund Supported Living Services. They believed that the severity and nature of T.J.'s disability created an unreasonable liability for the service provider and the regional center.

In March of 2010, Disability Rights California represented T.J. at an administrative hearing to challenge the regional center's denial of Supported Living Services. In June of 2010, the judge issued a written decision which upheld the regional center's decision. Despite evidence to the contrary, the judge believed that Supported Living Services could not ensure the safety of T.J. and those around him, particularly because the staff at the institution still forced T.J. into restraints.

From June of 2010 through July of 2011, Disability Rights California worked with T.J. and his family to address the judge's concerns. This included retaining an expert to work with T.J.'s staff to develop positive behavioral strategies to eliminate the use of restraints. T.J. also started to visit his family more often to demonstrate to the regional center that he could be safe in the community. His interdisciplinary team at the institution even began to support the idea that he should have the opportunity to live in a home of his own.

Despite this progress, the regional center's administration continued to refuse to fund Supported Living Services. In addition to arguing that the severity and nature of T.J.'s disability created an unreasonable liability for the regional center and provider, they also argued that Supported Living Services are designed for people to whom the regional center can "turn over the key" and not for someone like T.J. who requires "supervision". In July of 2011, Disability Rights California represented T.J. at a second administration hearing. This time, the judge rejected the regional center's arguments and ordered the regional center to immediately fund Supported Living Services for T.J. Since that time T.J.'s family has been busy turning his house into a home. His neighbors and community have also pitched in to help clean, landscape, paint, and prepare T.J.'s home for his return. In November of 2011, after seven years in an institution, T.J. moved home.

Lanterman, Goal 1, Objective: A

Disability Rights California Staff: William Leiner & Barbara Dickey

Other Counsel: N/A

Grant/Funding Source(s): PADD

Disability Rights California Succeeds in Obtaining Supports to Allow Client to Remain in Community

See Benefits

MENTAL HEALTH

Court of Appeal Affirms Right to Both Preliminary Hearing and Jury Trial when Lanterman-Petris-Short Act Conservatorship is Reestablished

J.W. was denied the right to a hearing on an LPS conservatorship and appealed to the Fourth Appellate District. Disability Rights California filed an amicus brief application, which the court denied. However, the court's decision affirms the right of an individual subject to a reestablishment petition under state law to attend a preliminary hearing on the matter. This may be the first opportunity to hear initial reasons for the petition, which may result in continued detention and/or out of county placement. Then, the proposed conservatee can decide whether to proceed with a court or jury trial on the issue of grave disability.

Mental Health, Goal 3, Objective A

Disability Rights California Staff: Mike Stortz, Dan Brzovic, Melinda Bird
Grant/Funding Source: PAIMI

Disability Rights California Files Amicus Brief in Case Challenging Failure to Provide Due Process Hearing when Temporary Lanterman-Petris-Short Act Conservatorship is Established

K.G. and D.H. were placed on temporary conservatorships without hearings, taking away various rights including the right to consent to administration of psychiatric medication. K.G. and D.H. then filed suit against the public guardian challenging the public guardian's failure to request a hearing before seeking to take away rights. The trial court denied relief and K.G. and D.H. appealed. Disability Rights California filed

an amicus brief application on their behalf, which the Court of Appeal has accepted.

Mental Health Workgroup, Goal 3, Objective A

Disability Rights California Staff: Dan Brzovic, Mike Stortz

Grant/Funding Source: PAIMI

Disability Rights California Successfully Preserves Medi-Cal Mental Health Benefits for Client with Multiple Disabilities.

N.J. v. Davis, et al.

Case No. RG11584500, Alameda County Superior Court, Judge Frank Roesch

N.J. has psychiatric and physical disabilities, as well as a traumatic brain injury. In July, 2010, Disability Rights California represented him in a Medi-Cal fair hearing, after the Monterey County Mental Health Department denied him mental health benefits stating that his disability was medical rather than psychiatric in nature. The hearing result was fully in N.J.'s favor, and he was granted the benefits that he requested. Almost seven months later, the Department of Health Care Services (DHCS) granted the county's request for a rehearing. Disability Rights California filed a petition for administrative mandamus in Alameda County Superior Court, challenging DHCS's decision to grant the rehearing on the grounds that it was both untimely and unjustified. The parties dismissed the litigation after DHCS agreed to take the rehearing off calendar, and to reinstate the Medi-Cal benefits that had been awarded to N.J. at the original hearing. DHCS also agreed to pay DRC's attorneys' fees.

Mental Health, Goal 3, Objective A

Benefits, Goal 3, Objective A

Disability Rights California Staff: Pamela Cohen, Maggie Roberts, Dan Brzovic, Kim Swain

Grant/Funding Source(s): PAIMI

Disability Rights California Investigates Mental Health Services at at Fresno County Jail

Disability Rights California received complaints from inmates with psychiatric disabilities at the Fresno County Jail that they were being denied access to adequate mental health care and that they were being discriminated against because of their disabilities. Disability Rights California responded by initiating a two day monitoring visit using our federal and state access authority as the protection and advocacy agency. During this monitoring visit, Disability Rights California had physical access to all areas of the jail where inmates with psychiatric disabilities resided. Shortly thereafter, Disability Rights California issued a report to the jail that outlined our serious concerns with mental health, medical, dental, and disability issues based on our monitoring visit. The Sheriff of the Fresno County Jail has since acknowledged receipt of our letter, and Disability Rights California is working with co-counsel from the Prison Law Office and Cooley, LLP to try resolve these serious concerns.

Mental Health, Goal 1, Objective A
Discrimination, Goal 3, Objective B

Disability Rights California Staff: Rachel Scherer, Andrew Berk, and Melinda Bird

Grant/Funding Source(s): PAIMI & EA

VOTING

Disability Rights California Provides Disability Etiquette Training to Los Angeles County Registrar-Recorder Elections Community and Voter Outreach Staff

Disability Rights California provided disability etiquette training at the Los Angeles County Registrar-Recorder's office. The topics of the training were tips for interacting with individuals with disabilities including developmental disabilities, physical/orthopedic disabilities, sensory disabilities, brain injury, psychiatric disabilities, and people who use wheelchairs or other types of assistive technology. The training was requested by the Community and Voter Outreach Section and the audience included newly hired staff. The Community and Voter Outreach Section conducts trainings and outreaches to underserved communities such as

individuals with disabilities, inmates in county jail, and communities whose members speak multiple languages. Their trainings provide information about voting rights, Inka Vote and Audio Ballot Booth voting system demonstrations, voter registration, and how to become a poll worker. Staff also serve as troubleshooters on election day for poll site access problems. The Community and Voter Outreach staff was particularly interested in tips for interacting with voters who are deaf or hard of hearing and voters with hidden disabilities.

Discrimination, Goal 5, Objective B

Disability Rights California Staff: Hillary Sklar

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

Los Angeles County Voting System Assessment Project Issues Report

See previous Regional Office Reports, Issues Nos. 58, 61, 62, and 64

The Voting System Assessment Project (VSAP) of which Disability Rights California is an appointed advisory member finalized a series of General Voting System Principles for Los Angeles. The principles were issued by the Los Angeles County Registrar-Recorder to the public in a report titled *Towards a Voter-Oriented Voting System* and are available at:

<http://www.lavote.net/Voter/VSAP/PDFS/VotingSystemPrinciples.pdf>.

Los Angeles County is the largest and most diverse election jurisdiction in the nation. Voters represent multiple disabilities, races and ethnicities, national origins, age groups and populations of varying socioeconomic status. The VSAP is the first voting system assessment project conducted by a Registrar-Recorder to prioritize and study the “people” element such as the ease of use and disability and language accessibility of voting systems. The Registrar-Recorder’s quarterly report to the Los Angeles County Board of Supervisors about the progress of the VSAP is available at:

http://www.lavote.net/Voter/VSAP/PDFS/VSAP_BoardReportQ32011_FinalDCL.pdf. More information about the VSAP can be found on the project’s

website: <http://www.lavote.net/Voter/VSAP/>.

Discrimination, Goal 4, Objective B

Disability Rights California Staff: Hillary Sklar

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

Collaboration with The Braille Institute, United Cerebral Palsy, and the California Council of the Blind to Provide Recommendations for the Los Angeles County Poll Worker Training

On September 13, 2011, members of the Los Angeles County Voter Accessibility Advisory Committee (VAAC) of which Disability Rights California is an appointed member and serves as community chair, attended a rehearsal of the Registrar-Recorder's poll worker training. During the training, the Assistant Registrar for the Elections Division asked Disability Rights California to provide the audience, which included poll site inspectors and Election Division staff, with an impromptu training about disability etiquette and common accessibility barriers at poll sites.

After the training, Disability Rights California submitted a comment letter prepared in collaboration with the other VAAC members to the Assistant Registrar for the Elections Division and managers of the Poll Site Operations and Poll Worker training units. The letter thanked the Assistant Registrar for his continued commitment over the years to ensure poll site accessibility for voters with disabilities and noted the numerous improvements made over time to strengthen the poll worker training. For example, as a result of recommendations made by Disability Rights California and other VAAC members, the Registrar created a new curbside voting sign that contains a cell phone number to reach the poll site supervisor located inside the poll site and asks for assistance getting inside the poll site or to request a curbside ballot. The letter also set forth a series of recommendations to further refine the training, such as placing directional signs at a lower height so they can be read from the height of a voter who uses a wheelchair and by voters with limited vision; placing poll booths at a distance that provides privacy for the voters and also minimizes distractions; testing the Audio Ballot Booth before the poll site is opened to ensure that the voting system is working, available, and in an accessible location. Disability Rights California presented our recommendation letter in conjunction with United Cerebral Palsy, the Braille Institute, and California Council of the blind at the September VAAC meeting and we will monitor the Registrar's implementation of the recommendations.

Discrimination, Goal 4, Objective B

Disability Rights California Staff: Hillary Sklar

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

Collaboration with the National Disability Rights Network on Development of a Voting Rights Handbook and Training Manual

During the past year, the National Disability Rights Network (NDRN) Advisory Voting Working Group (VWG) of which Disability Rights California is a member developed a Voting Rights Training and Handbook manual. The manual will be made available to all of the protection and advocacy (P&A) organizations and provides best practices and technical assistance about vote by mail and absentee voting, polling place accessibility, coalition building to improve access for voters with disabilities, Election Day hotlines, and voting practices in long-term care facilities among other topics.

The VWG is comprised of nine P&A PAVA staff from California, Colorado, Florida, Hawaii, Louisiana, Michigan, North Carolina, Tennessee, and Wisconsin. The VWG provides technical assistance to the P&As about PAVA issues such as voting rights and civic participation and advises NDRN about the training and resource needs of the P&A network. Disability Rights California contributed to previous VWG projects including a collaboration with the Bazelon Center for Mental Health Law on the 68-page booklet "VOTE: It's Your Right: A Guide to the Voting Rights of People with Mental Disabilities," available on the Bazelon website www.bazelon.org.

Discrimination, Goal 4, Objective B

Disability Rights California Staff: Hillary Sklar

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

Disability Rights California Provides Training about Get Out the Vote and Voter Registration Activities

Disability Rights California was contacted by staff from Community Resources for Independent Living (CRIL) in Hayward which sought information about how to organize get out the vote (GOTV) activities and increase voter registration and civic participation within the disability community. Disability Rights California provided information about our voting rights and civic participation trainings. Disability Rights California also connected CRIL with one of our technical assistance providers, the California Participation Project (<http://caparticipates.org/>), which is dedicated to expanding the role of nonprofits in voting and elections. As a

result, CRIL is planning a two-part statewide staff training in the fall to the network of California Independent Living Centers to improve access to voting for Californians with disabilities. Part one will focus on non-partisan voter registration and GOTV activities and will be conducted by the California Participation Project. Part two will focus on the federal and state voting rights of individuals with disabilities and GOTV activities in the disability community and will be conducted by Disability Rights California.

Discrimination, Goal 5, Objective B

Disability Rights California Staff: Hillary Sklar

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

GLOSSARY OF SELECTED TERMS

(Updated September, 2011)

“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 provide referrals to County Mental Health Services for children with special education needs beyond what schools can offer. These services are considered special education services, and they include behavioral assessments, individual or group therapy, occupational and physical therapy, and mental health services. (Also known as “AB 3632,” or “Chapter 26.5” or Gov. Code §§ 7570 – 7588)

ACUTE “NF” RATE

See “**NURSING FACILITY RATES**” definition.

“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.

“ADR” or ALTERNATIVE DISPUTE RESOLUTION

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 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

Plans 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.

CaIMHSA

Disability Rights California receives funds from the California Mental Health Services Act (“CaIMHSA”) for a stigma and discrimination reducing project. This is a 3 year grant running from the last quarter of FY 2011-2012 through FY 2013-2014.

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.

“CASA” or COURT APPOINTED SPECIAL ADVOCATES

Court appointed special advocates 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.

“DD-N” RATE

See **“NURSING FACILITY RATES”** definition.

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 CA 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

“DP/NF-A and “DP/NF-B”

See **“NURSING FACILITY RATES”** definition.

“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.

“FMR” or FAIR MARKET RENT

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 six different commitment categories for people who are involved with the mental health system because of their contact with the criminal justice system.

“FAA” or FUNCTIONAL ANALYSIS ASSESSMENT

An FAA is a mental health behavior analysis to review an individual's behavior in order to come up with a behavioral intervention plan to address problem behaviors.

“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 VOUCHER" 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.

“IHO”

The Department of Health Care Services In-Home Operations. This is the division of the Department of Health Care Services which administers a variety of Medi-Cal Home and Community-Based waivers.

“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, sub acute 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 intervener.

“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 identify 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 RATES

These rate categories reflect different levels of care and different levels of eligibility for services for individuals who receive services in

nursing facilities or intermediate care facilities for people with developmental disabilities.

- **ACUTE “NF” RATE:** This refers to a rate paid to a nursing facility for acute care services.
- **“DD-N” RATE:** This refers to the rate paid to ICF/DD-Ns which are Intermediate Care Facilities that provide nursing care for people with developmental disabilities.
- **“DP/NF-A” and “DP/NF-B”:** This refers to Distinct Part Nursing Facilities. NF-A and NF-B are levels of care. DP is “distinct part” and refers to a nursing facility that is connected to an acute care hospital.

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 ADVOCACY

“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.

“PABSS” 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 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.

“SONOMA COUNTY”

Disability Rights California’s Peer/Self-Advocacy program receives Mental Health Services Act funding from the County of Sonoma to provide peer and self advocacy services in that County.

“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.

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