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# Director of Litigation's Report on PAI's Current Advocacy: Cases and Projects

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FALL 2007 – Work as of July 31, 2007 – Issue 49

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This report represents a summary of the work PAI staff has reported from May 1, 2007 to July 31, 2007. Many thanks to those who provided the material to make this report possible.

## ABUSE AND NEGLECT

### Investigations Unit Releases Public Report: *Restraint and Seclusion in Public Schools: A Failing Grade*

See Previous DOL Reports: May 2006, August 2006. October 2006

In June, the Abuse and Neglect workgroup released a 55 page public report, available at <http://www.pai-ca.org/pubs/702301.pdf>, detailing the Investigations Unit's (IU) in-depth investigations into allegations of abusive restraint and seclusion practices involving seven students in five public schools and one non-public school. The IU released this report to highlight noncompliance with current regulatory requirements and to challenge schools and the California Department of Education to bring standards regarding behavioral restraint and seclusion of students into line with current practices in all other settings.

PAI's year-long investigations included extensive review of records, on-site inspections, victim and witness interviews, consultation with experts in education, and restraint and seclusion, meeting with key stakeholders, and legal analysis. One 10-year old boy with significant disabilities was bound to his wheelchair and left in the school van on two separate days. One school built a locked seclusion room where an 8-year old boy with psychiatric and developmental disabilities was routinely locked. Other children were dragged by their teachers into seclusion

areas and then barricaded from leaving. These investigations revealed both the failure of school personnel to comply with existing regulations and the failure of current law to sufficiently regulate the use of these risky practices.

In emergencies, school personnel are permitted to act to control a student's behavior posing a clear and present danger of serious physical harm to the student or others, and which cannot be immediately prevented by a less restrictive response. Such interventions may include temporary physical restraint and/or unlocked seclusion. In the cases investigated, school personnel applied restraint and seclusion techniques that are expressly prohibited and employed emergency interventions in situations that did not pose an imminent risk of harm. None of the events were reported as required by law, including notifying the students' parents or legal guardians.

Restraint and seclusion are dangerous and traumatic events that may cause serious physical and psychological harm – even death. In recognition of the serious risks associated with the use of restraint and seclusion, state and federal authorities and others have imposed significant restrictions on its use and required extensive review and reporting requirements in most settings. Schools and education laws and regulations have not kept pace with these reform initiatives.

The report concludes with detailed recommendations urging the Department of Education to provide enhanced oversight and heightened scrutiny of behavioral emergency interventions in schools and encouraging the Department of Education and state legislators to revise current laws and regulations to bring the practices of schools-based behavioral restraint and seclusion in line with those applied in other settings. This includes prohibiting the use of seclusion in schools; limiting the use of restraint to the most dire circumstances; ensuring school personnel comply with state laws and regulations limiting the use of emergency interventions; and making certain that school personnel proactively address serious student behavior problems through individual assessments.

The Investigations Unit continues to get reports of excessive restraint and seclusion in schools and may open further cases for investigation.

**Abuse and Neglect:** Goal 1, Objective A

**PAI Staff:** Leslie Morrison, Ricardo Jauregui, Pamela Lew, Charis Moore

**Grant/Funding Source(s):** PAIMI, PADD, EA, Trust Fund

## ANTI-DISCRIMINATION – GENERAL

### **PAI Helps Restore K.M.’s Access to Residential Rental Program**

#### *K.M. v. Residential Rental Program*

Nine years ago, K.M. was terminated from a Residential Rental Program operated by a local regional center and evicted from his rental property after only three weeks of program participation. The termination and eviction were both based on an incident wherein K.M. caused minor flooding to his apartment. The behaviors that caused the flooding to occur were the direct result of K.M.’s disabilities, as exacerbated by inappropriate medication.

K.M.’s eviction was reported to have occurred without notice or due process of any kind. Moreover, despite being aware of the nature and extent of K.M.’s disabilities, program staff failed to consider or explore reasonable accommodations that might be provided to allow K.M. to remain in his home, contrary to both state and federal fair housing law.

Recently, K.M.’s mother called the program, seeking to have K.M. re-admitted to the program. She was reportedly told that K.M. could not participate in the program because he had “caused too much damage” in the past.

K.M. contacted PAI for help. PAI drafted a letter to the Residential Rental Program demanding that they accept him for participation and put him on the waitlist for placement. In its letter, PAI pointed out that K.M.’s prior eviction was unlawful - on the basis of his disability and without the legally required exploration of how his disability might be accommodated to preserve his tenancy. PAI opined that to discriminate against K.M. again now, on the basis of his disability and the discriminatory prior eviction would be illegal and unjust, and would violate all notions of fairness.

After receiving PAI’s letter, the Residential Rental Program agreed to process K.M.’s application and place him on the waitlist.

**Anti-Discrimination/Housing:** Goal 2, Objective A

**PAI Staff:** Michelle Uzeta

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

## **PAI Reaches OCR Settlement with Local Law School on Behalf of Disqualified Law Student**

*See* Prior DOL Report, Summer 2007, Issue 48

As reported in a prior DOL Report, PAI was successful in getting the Office for Civil Rights of the Department of Education to open an investigation on behalf of a local law student J.G. J.G. had been denied access to her law school's established disability grievance procedures and disqualified from her course of study due to poor academic performance caused by her unaccommodated impairments.

The parties to the complaint agreed to participate in an Early Complaint Resolution process in an effort to resolve the issues raised in J.G.'s complaint. As the result of that process a settlement was reached wherein J.G. would be provided retroactive access to the disability complaint process, including review of her concerns by the Law School's Committee on Disability.

J.G. is hopeful that the disability complaint process will resolve her issues to her satisfaction, so that she might resume her study of law.

**Anti-Discrimination:** Goal 2, Objective A

**PAI Staff:** Michelle Uzeta

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

## **PAI Provides Support to Deaf Agency in Enforcing E.V.'s Right to Interpretation Services**

Eighteen year old E.V. is deaf and has mental retardation. He came to the United States recently, with minimal language and social skills. E.V. experienced significant difficulties in school due to communication barriers and was subsequently kicked out of his family home. E.V. is eligible for regional center services and was housed, temporarily, in a hotel in Kern County. He was later arrested for underage drinking with some other neighborhood boys. When E.V. went to court, he had no representation and no interpreter. The criminal court liaison for the regional center stepped in.

The court liaison met with E.V. regarding his situation, but refused to provide him with an interpreter. Written notes were exchanged, but E.V. cannot read or write English. The liaison was approached by an advocate from a local advocacy organization for people who are deaf. The advocate who had been working with

E.V. for the past 18 months. The advocate had traveled to Kern County per E.V.'s request, in an effort to ensure that the consumer had proper communication access during court proceedings, but the court liaison precluded the advocate from communicating with E.V.

E.V. was sentenced to 3 years probation and "agreed" to attend a residential substance abuse treatment program that does not meet his communication needs. E.V. did not understand the sentence; he thought he had "won".

Staff from the local advocacy organization subsequently contacted PAI, inquiring about E.V.'s complaint options. PAI provided staff with information about the 4731 Complaint process (See, Welf. & Inst. Code section 4731), and assisted them in drafting a complaint on E.V.'s behalf. The complaint alleges that the actions of the liaison violated E.V.'s right to communication access as required under the Americans with Disabilities Act, State anti-discrimination statutes and his rights under Welfare and Institutions Code Sections 4502(a), (b), (f) and (j).

**Anti-Discrimination:** Goal 2, Objective A.

**PAI Staff:** Michelle Uzeta

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

**PAI Joins Other Disability Rights Advocates in Calling Upon the Department of Transportation to Enforce Requirements Regulating Provision of Air Travel to People with Disabilities**

*SEIU et al. v. Aero Port Services*

Protection and Advocacy, Inc., joined a number of disability rights organizations in supporting a Department of Transportation (DOT) complaint filed by two Aero Port Services (APS) employees with the assistance of the Service Employees International Union, Local 1877. The complaint, filed June 28, 2007, is based on the failure of the company to provide its employees at the Tom Bradley International Terminal of the Los Angeles International Airport with training concerning the provision of air travel to individuals with disabilities, as required under federal law. *See, 14 CFR 382.61.*

The complaint also alleges that APS has failed to provide employees with equipment capable of safely transporting individuals with disabilities. The complaint asks the DOT to compel APS to provide adequate training to all employees that are expected to provide services to individuals with disabilities as

required under the law, and impose appropriate penalties on APS for their failure to adhere to the law to date.

**Anti-Discrimination/Transportation:** Goal 1, Objective A

**PAI Staff:** Michelle Uzeta

**Other Organizations Offering Support:**

- American Association of People with Disabilities (AAPD)
- California Alliance for Retired Americans (CARA)
- Communities Actively Living Independent and Free (CALIF)
- Community Resources for Independence
- Disability Rights Education and Defense Fund (DREDF)

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

### **Tentative Settlement Reached In Case Challenging Condominium Conversion**

*Affordable Housing Coalition of San Diego County et al. v. City of San Diego*

*See previous DOL report, Issue 46*

The Affordable Housing Coalition of San Diego County, the Coalition for Responsible Equitable Environmental Development and A.R., a person with a disability, reached a settlement with the City of San Diego in a case filed under the California Environmental Quality Act challenging large numbers of condominium conversions that were approved in the City of San Diego. In the past three years, over 20,000 units have been converted.

The settlement, which was approved in closed session by the City Council on March 27, 2007, includes an agreement for a 1,000 unit per year cap on condominium conversions and the payment of petitioners' attorneys' fees. The settlement requires that the City Council approve an ordinance providing for the cap on conversion. On June 12, 2007, the proposed ordinance went before City Council. Dozens of supporters of the cap, including many activists in the disability community, appeared at the meeting and gave testimony. The proposed ordinance was not voted on at that meeting. The ordinance has now been referred to the Planning Commission for approval and the issue will be back before the City Council in September. The ordinance currently has the support of the Mayor's office.

**Anti-Discrimination:** Goal 2, Objective A

**PAI Staff:** Ann Menasche (co-counsel representing the Affordable Housing Coalition and A.R.)

**Other Counsel:** Cory Briggs of Briggs Law Corporation as lead counsel for two organizational plaintiffs

**Grant/Funding Source:** PAIR, PAIMI

**Court Allows S.C. to Proceed with Claim Challenging Discriminatory Child Care Policies and Adds County of San Diego as Respondent**

*See previous DOL report, Issue 48*

S.C. is a woman with a mental disability who was charged with childcare fraud by the County of San Diego (County) for utilizing childcare services while taking herself and her children with disabilities to medical appointments or surgery. The County denied a request for reasonable accommodation to allow these visits to be counted for purposes of childcare eligibility.

After losing at a state hearing, S.C. and the Supportive Parents Information Network (SPIN) filed a Writ of Mandate against the California Department of Social Services (CDSS) (the supervisory agency over the counties' welfare programs) to overturn the administrative decision and to challenge the discriminatory policy. On May 14, 2007, S.C.'s individual case was remanded for a new hearing before a new ALJ. The portion of the lawsuit challenging the discriminatory policy continues to be litigated.

On June 19, 2007, petitioner filed a Motion to File a Third Amended Petition adding the County as a party respondent. CDSS opposed the motion on the grounds that petitioners had failed to state a cause of action and that S.C. and SPIN did not have standing to challenge the policy. On July 13, 2007, the Court ruled in favor of petitioners allowing the Third Amended Petition to be filed, finding that petitioners had properly stated a cause of action in their Petition and that petitioners both had standing to pursue this claim.

**Anti-Discrimination:** Goal 2, Objective A

**PAI Staff:** Ann Menasche

**Outside Counsel:** Dora Luna, Western Center on Law & Poverty

**Grant/Funding Source:** PAIMI

## **PAI Ensures J.G. Has Communication Access at His Mandated Residential Drug and Alcohol Program**

J.G. is deaf, and had been imprisoned at the California Institute for Men. Upon his release, he was scheduled to enter a residential drug and alcohol treatment facility. J.G. contacted the facility well in advance of his release date to request the presence of an ASL interpreter for his initial intake interview. The facility refused to confirm that an interpreter would be provided, so J.G. contacted PAI for help. PAI sent a letter to the facility explaining J.G.'s rights under the Americans with Disabilities Act and State law. PAI stressed how an initial intake interview, where personal identifiable information is collected and house rules are explained, is important and complex enough of a conversation to require the provision of an interpreter. Failure to do so, PAI added, would result in a violation of the law. After receiving PAI's letter and speaking to PAI staff, the program agreed to provide the interpreter.

**Anti-Discrimination:** Goal 2, Objective A

**Anti-Discrimination/Housing:** Goal 1, Objective A

**PAI Staff:** Michelle Uzeta

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

## **Class certification granted in Laguna Honda lawsuit**

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

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

*See* previous DOL Report, Issue 47.

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

On October 11, 2006, six residents of Laguna Honda Hospital, joined by the Independent Living Resource Center (ILRCSF) in San Francisco, filed a lawsuit to challenge San Francisco's discriminatory actions resulting in their unnecessary institutionalization at Laguna Honda, a more than 1,000 bed nursing facility owned and operated by the City. These residents prefer and have been determined to be capable of living in their own homes and in the community. San Francisco's

actions violate the Americans with Disabilities Act (ADA), which requires that individuals with disabilities be provided with services in the “most integrated setting appropriate” to their needs. This lawsuit seeks relief from San Francisco that will enable Plaintiffs and the class of current and potential residents they represent to leave Laguna Honda, or avoid placement there, with affordable, accessible housing and services that will support full, independent, and productive lives.

On July 2, 2007, Judge William H. Alsup granted Plaintiffs’ uncontested motion for class certification, which defines the class as:

All adult Medi-Cal beneficiaries who are:

- (1) residents of Laguna Honda Hospital and Rehabilitation Center; or
- (2) on waiting lists for Laguna Honda Hospital and Rehabilitation Center; or
- (3) within two years post-discharge from Laguna Honda Hospital and Rehabilitation Center; or
- (4) patients at San Francisco General Hospital or other hospitals owned or controlled by the City and County of San Francisco, who are eligible for discharge to Laguna Honda Hospital and Rehabilitation Center.

Judge Alsup further ordered the parties to distribute notice to potential class members in order to encourage broad participation in the lawsuit.

**Anti-Discrimination:** Goal 1, Objective A

**Benefits:** Goal 5, Objective A

**PAI Staff:** Elissa Gershon, Kim Swain, Elizabeth Zirker

**Other Counsel:** Disability Rights Education and Defense Fund (DREDF), AARP Foundation Litigation, the Bazelon Center for Mental Health Law, and the law firm of Howrey LLP (pro-bono).

**Grant/Funding Source:** PAIR, PAIMI, PAAT

### **PAI Files Comments on State’s Proposed Expansion of Medi-Cal Managed Care Program for Persons with Disabilities and Seniors**

In 2004-2005 California was proposing a significant expansion of mandatory Medi-Cal managed care for persons with disabilities and seniors. Although the proposal included both seniors and persons with disabilities, the proposal did not extend to persons who also qualified for Medicare, so the primary group affected

was persons with disabilities. (The State buys into Medicare for those Seniors who did not already qualify, an option not available to persons with disabilities.) The proposal would have transferred people in large and small counties from fee-for-service Medi-Cal to managed care. There was widespread concern about the impact on persons with disabilities, including through disruption of existing treatment relationships, and concerns about access and quality of care. In response to those concerns The California Health Care Foundation (CHCF) convened a stakeholder group (consumers, consumer advocates, health plans, providers including safety net providers, and State and county agency representatives) broken up into workgroups addressing issues such as case management, network capacity and accessibility, quality improvement, performance measures and coordination of carve out services. PAI participated in the stakeholder group and on the workgroups. The project team leading the work included staff from the Center for Disability Issues and the Health Professions, the Center for Health Care Strategies, and the Lewin Group.

The Report – Performance Standards for Medi-Cal Managed Care Organizations Serving People with Disabilities and Chronic Conditions – was issued by the CHCF in November of 2005. Just before the report issued, the State put off its proposed expansion of mandatory managed care for persons with disabilities. The State agreed to review the approximately 53 recommendations in the report and respond to them. The Medi-Cal Managed Care Division of the Department of Health Care Services issued its response to the recommendations in May of 2007 and invited public comment. The State agreed to many of the recommendations but there were significant areas of disagreement. PAI filed its comments to the State Response including with respect to the obligation that the State and managed care organizations ensure that Medi-Cal services are accessible to persons with mobility, sensory, communicative, cognitive and behavioral limitations.

**Benefits:** Goal 3, Objective B

**Anti-Discrimination:** Goal 1, Objective B

**PAI Staff:** Marilyn Holle

**Grant/Funding Sources:** PADD, PAIR, PAAT

## **PAI Helps L.O. Secure Access to Necessary Medical Treatment Close to Her Home as a Reasonable Accommodation for Her Disabilities**

*L.O. v. Kaiser Permanente*

L.O. is a person with multiple physical disabilities who was seeking follow-up treatment major surgery. L.O.'s private health insurance provider initially allowed her to seek follow-up treatment at UC Davis Medical Center (UCD), which is very close to L.O.'s house in Sacramento. However, shortly after L.O. began to receive treatment at UCD, her private health insurance provider opened its own clinic in San Francisco and began to require that L.O. seek treatment there. L.O.'s multiple physical disabilities do not allow her to sit in one place for long periods of time and, as a result, L.O. was unable to make the two-hour journey to the clinic in San Francisco. When L.O. raised this issue with her private insurance provider, the Administrator informed L.O. that she would be "dropped" as a patient if she did not report for follow-up treatment in San Francisco. L.O. then contacted PAI.

PAI contacted the director of the private insurance provider's clinic and informed her of L.O.'s needs to receive treatment at a location closer to her home, due to her multiple physical disabilities, and her rights to reasonable accommodations of the private insurance provider's policies. Shortly thereafter, L.O. contacted PAI to inform us that the Administrator had agreed to allow her to seek follow-up treatment at UCD has an accommodation for her multiple physical disabilities.

**Anti-Discrimination:** Goal 2, Objective A

**PAI Staff:** Stuart Seaborn

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

## **PAI & OCRA Help Restore B.S.'s Position on the Section 8 Wait list**

*B.S. v. Housing Authority*

B.S., a client of a local regional center, was taken off the Section 8 waitlist after not responding to notices issued in May and June of 2006 advising him to go to the Housing Authority because his name had reached the top of the list.

B.S. has developmental disabilities and did not understand the letters sent to him. His failure to respond was the result of his disabilities. A year later, when his regional center caseworker realized he had been taken off the list, he contacted the Housing Authority, explained the situation and asked that B.S. be reinstated. The

caseworker also noted to the Housing Authority that B.S.'s application for Section 8 listed him as an additional contact for B.S., yet the housing authority never contacted the caseworker on B.S.'s behalf.

The Housing Authority refused to reinstate B.S., stating that they only contact additional people listed on Section 8 applications if mail to the applicant is returned to them as undeliverable. They also noted that the waitlist was now closed.

The OCRA Clients Rights Advocate (CRA) working with PAI regional office staff, wrote a letter to the housing authority on behalf of B.S., pointing out that federal regulations provide that a person removed from a waiting list for failing to respond must be reinstated to his former position on the waiting list if that failure was caused by a disability. See, *24 CFR 982.204(c)(2)*. She obtained and attached medical documentation from B.S.'s treating doctors in support of her position, and asked that the client be reinstated and provided with the accommodation of having all future notices sent to his regional center caseworker as well as him.

The Housing Authority complied with the CRA's requests – B.S. has been reinstated to the Section 8 program and is getting the accommodations he needs to participate in the program in the future.

**Anti-Discrimination - Housing:** Goal 2, Objective A

**PAI Regional Office Staff:** Michelle Uzeta

**OCRA Staff:** Katherine Mottarella

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

### **PAI Assists B.L. in Securing Retroactive Housing Subsidy and Avoiding Section 8 Termination**

#### *B.L. v. Housing Authority*

B.L.'s Section 8 was terminated by his local housing authority due to alleged program non-compliance. Because B.L. did not receive a notice of termination, it was simply assumed that the termination was based on his failure to appear and cooperate with a number of prior appointments the housing authority had scheduled to re-inspect his unit. Once B.L. learned his benefits had stopped he requested an informal hearing. A date was scheduled but the time conflicted with his daily mental health program. B.L. made a number of calls to the housing

authority to re-schedule the informal hearing, but his calls went unreturned. He missed the informal hearing, and his case file was sent to be scheduled for formal hearing.

For three months, B.L. was without a subsidy, and paid his rent out of pocket. When he could no longer pay and was at risk of eviction, B.L. asked PAI to intervene on his behalf. PAI contacted the housing authority, asserting that the termination of B.L.'s payments prior to a pre-termination evidentiary hearing violated both the federal regulations applicable to the Section 8 program (24 CFR 982.552; 24 CFR 82.555) and B.L.'s right to procedural due process under the Fourteenth Amendment. *See e.g. Goldberg v. Kelly*, 397 U.S. 254 (1970)(a pre-termination evidentiary hearing is necessary to provide recipient with procedural due process). PAI demanded that B.L. be immediately issued retroactive subsidy payments and that his subsidy continue until an informal hearing could be completed.

After receiving PAI's letter, the housing authority agreed to issue B.L.'s retroactive subsidy payments and scheduled an informal hearing for him. PAI represented B.L. at the informal, arguing that program termination was inappropriate in his case. PAI stressed that, in determining whether to deny or terminate assistance for an individual, the housing authority may consider all relevant circumstances - including but not limited to the seriousness of the case and mitigating circumstances related to the disability of the individual. 24 CFR 982.552 (c)(2)(i). PAI also stressed that when a Section 8 beneficiary is a person with disabilities, the housing authority's decision to terminate is subject to consideration of reasonable accommodations (24 CFR 982.552 (c)(2)(iv)), and made note of other applicable anti-discrimination statutes. Evidence of B.L.'s hospitalization and disability related impairments was provided in support of PAI's position, and B.L. was ultimately reinstated to the Section 8 program.

**Anti-Discrimination - Housing:** Goal 1, Objective A

**PAI Staff:** Michelle Uzeta, Michael Jonas

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

## **PAI Obtains Permission for a V.L. To Relocate Her Section 8 Benefits As A Reasonable Accommodation for Her Disabilities**

*V.L. v. Housing Authority*

V.L. is deaf, has other physical disabilities, and has been treated for a psychiatric disability. She moved into an apartment with her section 8 voucher a few months ago with her boyfriend. Her boyfriend unexpectedly died in the apartment and the client believed it was due to chemicals in the apartment. She complained of a gassy smell coming from her unit that made her physically ill and requested that she be allowed to move to another apartment with her section 8 benefits. V.L. ended up sleeping in her car and staying with friends in order to avoid her unit and requested that the Housing Authority allow her to move.

However, several inspectors who came to the apartment found nothing wrong with the unit and, as a result, the Housing Authority denied V.L. permission to transfer her section 8 benefits to a new apartment. In addition, V.L.'s hearing impairment had the effect of making communication with the Housing Authority more difficult.

PAI contacted the Housing Authority and convinced them to provide V.L. with a "move packet" to allow her to relocate as a reasonable accommodation for her disabilities. PAI successfully argued that regardless of whether V.L.'s fear of living in her unit was a result of unusual chemical sensitivities to odors in her unit or arose from her psychiatric disability and the trauma related to the death of her boyfriend, the request constituted a reasonable accommodation.

**Anti-Discrimination –Housing:** Goal 1, Objective A

**PAI Staff:** Ann Menasche

**Grant/Funding Source:** PAIR

## **PAI Assists Client in Obtaining Accommodations in Section 8 Program**

L.Z. is a person with multiple physical and mental disabilities who lives in a Section 8 apartment. Due to her multiple disabilities, L.Z. was unable to be ready for the required inspection of her apartment in order to recertify her Section 8 voucher. L.Z. contacted PAI and PAI negotiated with section 8 staff to obtain a postponement of the Section 8 inspection of L.Z.'s apartment. As a result of the postponement, L.Z. was able to be ready for the inspection and keep her Section 8 voucher.

**Anti-Discrimination – Housing** Goal 1, Objective A

**PAI Staff:** Pamela Cohen

**Grant:** PAIMI

**PAI Assists R.P. Secure Accommodation to Stay in Seniors-Only Mobile Home Park**

*R.P. v. Mobile Home Park*

R.P. has a mental illness and lives with his parents in a seniors-only mobile home park. R.P. does not meet the age requirements of the residency rules for the mobile home park. After the attorney for the park threatened R.P. with eviction he contacted PAI.

PAI staff advised RP and his parents of their legal rights, wrote a letter to the attorney for the mobile home park setting forth R.P.'s rights, and assisted the R.P. in securing an appropriate physician's letter that would support his need to reside with his parents in their home. As a result of PAI's advocacy, the mobile home park chose not to pursue an eviction of R.P.

**Anti-Discrimination – Housing:** Goal 1, Objective A

**PAI Staff:** Pamela Cohen

**Other Counsel:** None

**Grant:** PAIMI

**PAI Trains HUD Staff on Strategies for Handling Intakes from People with Psychiatric Disabilities**

On May 3, 2007, PAI provided training to staff at the U.S. Department of Housing & Urban Development on strategies for handling intakes with people who have psychiatric disabilities. PAI staff provided participants with written materials on working with people with mental disabilities, and answered questions from intake and legal staff. The training was held in the HUD San Francisco office, with staff from the other Western regional offices participating by teleconference.

**Anti-Discrimination – Housing:** Goal 1, Objective D

**PAI Staff:** Pamela Cohen

## **PAI Helps R.C. Keep Accessible Parking**

*R.C. v. Homeowners' Association*

R.C. is a person with multiple physical disabilities who lives in a condominium complex governed by a homeowners association (HOA). The HOA has a rule requiring residents to park their cars in their driveways and prohibiting them from parking their cars on the common area streets in front of their units. However, RC's driveway has a steep grade and his multiple physical disabilities limit his ability to enter and exit his car safely when it is parked in his driveway. As a result RC has parked his car in the common area streets which are flat and provide access to the sidewalk in front of his unit. RC contacted PAI after the HOA charged him multiple fines for parking his car on the common area streets.

PAI wrote an opinion letter for RC, stressing his rights to reasonable accommodations under the federal Fair Housing Act and California's Fair Employment and Housing Act as well as the applicability of these laws to condominium homeowners' associations. RC shared the opinion letter with the HOA's Board of Directors which rescinded the fines and allowed him to park his vehicle in on the common area streets in front of his unit.

**Anti-Discrimination - Housing:** Goal 1, Objective A

**PAI Staff:** Stuart Seaborn

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

## **PAI Helps Ensure P.B. Has Accessible Door to Her HUD-Funded Apartment!**

*P.B. v. Apartment Complex*

P.B. is a person with multiple physical disabilities who uses a wheelchair and lives in a HUD-funded apartment complex in the City of Sacramento. She contacted PAI after the complex's management company informed her that it was about to install an automatic-closing door at the entrance of her apartment which would have been too heavy and awkward for her to safely open and close from her wheelchair. The management company told P.B. that it decided to install the door after receiving fire code-compliance instructions from the Fire Department in Sacramento. In order to prevent the installation of the door, P.B. contacted PAI as well as local news media and the Fire Department.

PAI then contacted the management company and the Fire Department to advise them of P.B.'s rights to reasonable accommodations under the federal Fair Housing Act and California's Fair Employment and Housing Act. As a result of PAI's call, the Fire Department agreed to delay its enforcement of the provision of the Fire Code requiring automatic-closing doors on apartment units until P.B. and the management company could work out an accommodation plan that would allow P.B. access to her unit. In addition, the management company agreed to work with the local housing authority to install a remote control device that would allow P.B. to open and close the automatic-closing door from her wheelchair. P.B. later informed PAI that the housing authority and the management company had completed the installation of the remote control device – providing her access in and out of her apartment -- and that the Fire Department approved the device as compliant with the Fire Code.

**Anti-Discrimination - Housing:** Goal 1, Objective A

**PAI Staff:** Stuart Seaborn

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

### **PAI Advocates On Behalf of J.G. When He was Improperly Terminated from Day Program**

**Lanterman:** Goal 3, Objective A

**Anti-Discrimination:** Goal 2, Objective A

**PAI Staff:** Anna Levine

**Grant/Funding Source:** PADD

See description under Lanterman, below.

## **BENEFITS**

### **PAI Helps B.S. Obtain SSDI Benefits**

B.S. met a PAI advocate at a training/outreach event. B.S. informed the advocate that he had sustained a traumatic brain injury in August of 2005 when he fell from his roof while making some repairs. He applied for SSDI benefits in May of 2006 and received a denial in October of 2006. The advocate evaluated his case and found that the Social Security Administration (SSA), in determining whether B.S. was disabled, had not considered all of the medical evidence available.

The advocate provided direct representation and assisted B.S. with filing reconsideration with SSA. All of the medical evidence that proved that B.S. was disabled was included when the reconsideration was filed. In June of 2007, B.S. received a notice from SSA advising that he was entitled to SSDI benefits retroactive to February of 2006. SSA determined that B.S. first became disabled in August 2005, and under SSDI rules, he was eligible for benefits five month after that date.

**Benefits:** Goal 1, Objective A

**PAI Staff:** Todd Higgins

**Funding source:** PATBI

### **C. Gets a Safety Evaluation for Assistive Technology to Assist Him to be Transported in the Community**

C. is an adult with profound mental retardation and a regional center client. He requires assistance with all his activities of daily living. In order to travel in the community he must be lifted in and out of his family's truck. Due to his size and age, his family is no longer able to do this. His family looked into modifications that could be done to the truck that would assist C. to be safely transferred and transported. The family asked the regional center to fund a turny chair system. This technology would require that the truck be modified with a specialized swivel seat that would allow C. to be easily transferred to and from a waiting wheelchair.

The regional center denied the family's request and so they sought PAI's assistance. PAI requested from the regional center that C. be placed on the Home and Community Based Developmental Disabilities (DD) Waiver. This waiver funds vehicle modifications, among other things. PAI also requested that a transportation/assistive technology goal be created in the Individual Program Plans (IPPs) to address the C.'s needs.

The regional center declined both requests, believing that C. was not eligible for the DD Waiver and that the transportation objectives already in the IPP sufficed as a transportation goal. PAI filed for a hearing. Thereafter, the regional center changed its position and agreed that C. qualified for the DD Waiver. It also agreed to perform a safety assessment, regardless of C.'s eligibility for the DD waiver, and to create a community access goal in the IPP to address C.S.'s goal of safe transportation.

**Benefits:** Goal 3, Objective A

**Lanterman:** Goal 1, Objective A

**PAI Staff:** Aleyda Toruno, Marilyn Holle.

**Grant/Funding Source(s):** PAAT; PADD

### **PAI Assists B.T. to Obtain Wheelchair and Culturally Appropriate Services and Supports from the Regional Center**

B.T. is a 28-year-old Hmong American woman who lives with her family and her mother who is limited English proficient. B.T. was receiving few regional center services even though her needs are great. She needed a custom manual wheelchair and was in a loaner wheelchair for over 2 years that did not fit her. The loaner did not have a custom cushion, the foot rest was broken and the upholstery was coming apart. She also needed services and supports that she was not receiving and wanted a new service coordinator because her current one was not responsive to her and her family when they sought assistance.

Through PAI's assistance, B.T. now has a manual wheelchair that is fully customized to her. The regional center will now provide her with support so that she can attend the Hmong New Year Festival. The regional center will also provide an aide, transportation and registration so that she can attend a Self Advocacy Conference. She will have support through Independent Living Services so that she can visit her father, and go dancing or shopping. The regional center has also agreed to an occupational therapy/physical therapy assessment. She now has a new service coordinator.

**Benefits:** Goal 3, Objective A

**Lanterman:** Goal 4, Objective A

**Staff:** Tho Vinh Banh, Leilani Pfeifer

**Grant/Funding Source:** PADD/PAAT

### **PAI Helps Young Adult with Autism Obtain IHSS Protective Supervision Hours**

M.S., a monolingual Korean American woman with autism and severe bipolar disorder, began receiving 123 hours of IHSS per month since she applied in 2007. Protective supervision was denied despite the fact that M.S. is not oriented to person, place, and time, and she is unable to judge between safe and unsafe behaviors. She also has a history of running into the street and being unable to find her way back home.

PAI agreed to represent M.S. at a fair hearing. To prepare for the hearing, PAI obtained an independent psychiatric evaluation which concluded that M.S. is unable to live safely in her own home without protective supervision services. PAI negotiated with the county to reassess M.S. for protective supervision in exchange for a conditional withdrawal of M.S.' administrative appeal. PAI also advocated on behalf of M.S. during the reassessment process as well. Ultimately, the county agreed to give M.S. 283 hours of protective supervision.

**Benefits:** Goal 2, Objective A

**PAI Staff:** Siyon Rhee, Keith Sakimura

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

### **J. C. Finally Gets Home and Community-Based Waiver Services**

*See, previous DOL Reports Spring 2003, Winter 2005, Summer 2006 and Spring 2007 (Issues 31, 42, 44, and 47)*

J.C. has a progressive neurological condition that has left him needing 24-hour care. He had been residing at a hospital for almost five years because no nursing facility was willing or able to meet these needs. His parents desperately wanted him to come home and live with them, but there was no way to pay for his 24-hour care needs through the Medi-Cal program. Although the State operates HCBS waiver programs that pay for in-home care, the Nursing Facility A/B Waiver, for which the State found him eligible, will only provide a budget of \$35,000 per year, which is not nearly sufficient to fund his care needs.

PAI represented J.C. at an administrative hearing and in a State Court appeal, to challenge the State's determination that he qualified for the NF A/B Waiver instead of another waiver that would have provided a higher budget. The State prevailed in both cases. After the Court ruling, J.C.'s parents contacted State Assemblywoman Sally Lieber, who, with the support of several other legislators and PAI's assistance, successfully advocated for the State to amend its new Waiver to allow a few individuals like J.C. to receive the home-based services they need. The new Waiver requirements allow individuals who have been in continuous acute care for 36 months, who have doctor's orders for services beyond the NF A/B level of care, and who have services in place at the time of discharge to receive services under the new IHO HCBS Waiver.

Under the new Waiver, J.C. is able to receive 24-hour care by licensed vocational and registered nurses, as well as nursing case management, payment for the

necessary modifications to make his parents' home accessible, and needed medical supplies.

J.C. went home on June 19 2007. He is now happily at home with his parents, where, in his first 6 days, he has received many visits from family and friends, and even took a trip to the park with his nieces and nephews.

**Benefits:** Goal 3, Objective A

**PAI Staff:** Elissa Gershon, Dan Brzovic, Crystal Padilla

**Grant/Funding Source:** PAIR

### **PAI Obtains a New Ultra Light Manual Wheelchair for M.L.**

M.L. has paraplegia and upper arm weakness. She has used a manual Ultra Light wheelchair (Ultra Light) for many years for independent access within her home to complete her activities of daily living. M.L. used a power wheelchair for community access. Last year, M.L.'s Ultra Light wheelchair needed extensive repairs but was deemed too expensive to repair. M.L.'s physical therapist at Rancho Los Amigos National Rehabilitation Center (Rancho) recommended M.L. for a new Ultra Light and prepared a medical justification letter. This letter along with a Treatment Authorization Request (TAR) was submitted to Medi-Cal for a new Ultra Light by M.L.'s wheelchair vendor. However, the Medi-Cal field office denied the TAR for the Ultra Light but approved M.L. for a "back-up" heavy weight manual chair. This chair weighed over 20 pounds more than M.L. could safely propel. Medi-Cal contacted the vendor about the denial but did not also contact M.L. as is required by law. M.L.'s physical therapist then suggested giving PAI a call.

PAI reviewed the TAR, supporting documents, and spoke with M.L.'s physical therapist. PAI worked with Rancho to develop a stronger medical justification letter to address the reasons why a standard manual chair would not meet M.L.'s needs. PAI also agreed to represent M.L. at her Medi-Cal hearing.

Prior to the hearing, PAI sent the new medical justification letter to the Medi-Cal field office. Medi-Cal agreed that the standard chair would not meet M.L.'s needs and recommended a light weight wheelchair, but not an Ultra Light. Even though Rancho stated that M.L. could not safely use such a chair, Medi-Cal asked M.L. to try a light weight chair anyway. However, neither the client, the vendor, the rehabilitation center, nor PAI could locate a vendor that could loan a light weight chair for M.L. to try. During this time, the axle on M.L.'s Ultra Light wheelchair

snapped. Medi-Cal then agreed to authorize M.L. for a new Ultra Light. The matter was resolved without a hearing.

**Benefits:** Goal 3, Objective A

**PAI Staff:** Hillary Sklar

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

### **PAI Files Comments on Managed Care**

In 2004-2005 California was proposing a significant expansion of mandatory Medi-Cal managed care for persons with disabilities and seniors. Although the proposal included both seniors and persons with disabilities, the proposal did not extend to persons who also qualified for Medicare, so the primary group affected was persons with disabilities. (The State buys into Medicare for those Seniors who did not already qualify, an option not available to persons with disabilities.) The proposal would have transferred people in large and small counties from fee-for-service Medi-Cal to managed care. There was widespread concern about the impact on persons with disabilities, including through disruption of existing treatment relationships and concerns about access and quality of care. In response to those concerns, The California Health Care Foundation (CHCF) convened a stakeholder group (consumers, consumer advocates, health plans, providers including safety net providers, and State and county agency representatives). The group was broken up into workgroups addressing issues such as case management, network capacity and accessibility, quality improvement, performance measures and coordination of carve out services. PAI participated in the stakeholder group and on the workgroups. The project team leading the work included staff from the Center for Disability Issues and the Health Professions, the Center for Health Care Strategies, and the Lewin Group.

The Report – Performance Standards for Medi-Cal Managed Care Organizations Serving People with Disabilities and Chronic Conditions – was issued by the CHCF in November of 2005. Just before the report issued, the State put off its proposed expansion of mandatory managed care for persons with disabilities. The State agreed to review the approximately 53 recommendations in the report and respond to them. The Medi-Cal Managed Care Division of the Department of Health Care Services issued its response to the recommendations in May of 2007 and invited public comment. The State agreed to many of the recommendations but there were significant areas of disagreement. PAI filed its comments to the State Response, including with respect to the obligation that the State and managed

care organizations ensure that Medi-Cal services are accessible to persons with mobility, sensory, communicative, cognitive and behavioral limitations.

**Benefits:** Goal 3, Objective B

**Anti-Discrimination,** Goal 1, Objective B

**PAI Staff:** Marilyn Holle

**Grant/Funding Sources:** PADD, PAIR, PAAT

### **PAI Conducts a Training with Fiesta Educativa on SSI, SSDI, Medi-Cal, and Medicare Eligibility for Children**

PAI staff conducted training with Fiesta Educativa at the East LA Regional Center on June 10, 2007. The training was on SSI, SSDI, Medi-Cal, and Medicare eligibility for children. The training was attended by 25 parents of children with disabilities who are Regional Center eligible and were monolingual Spanish speaking. Spanish translation was provided for the training.

**Benefits:** Goal 3, Objective B

**Anti-Discrimination:** Goal 1, Objective B

**PAI Staff:** Todd Higgins/ Mary Rios

**Grant/Funding Sources:** PATBI

### **PAI Files Comments on State's Proposed Expansion of Medi-Cal Managed Care Program for Persons with Disabilities and Seniors**

Reported under Anti-Discrimination, below.

### **Class Certification Granted in Laguna Honda Lawsuit**

Reported under Anti-Discrimination, below.

## **CHILDREN AND YOUTH**

### **School District Agrees To Fund Intensive Private Program To Address K.G.'s Chronic Needs**

K.G. is two years shy of school graduation, but due to a significant learning disability is not expected to pass the exit exam. Over the years, various measures,

including standard speech and language services, have failed to improve his learning difficulties. For some time, his parents have sought a specialized private program that has a great likelihood of addressing their son's needs, but the district has consistently refused their request.

In 2007, PAI filed for a special education hearing, asserting that when a district fails to adequately address a child's needs over the years, it should consider the use of outside resources, including the use of a research-based private program. As the hearing date neared, negotiations between the parties became more intense, resulting in a settlement which includes the use of the private program to address K.G.'s learning needs.

**Children & Youth:** Goal 2, Objective 5

**PAI Staff:** Taymour Ravandi

**Grant Funding Source(s):** PADD

### **School District Drops Expulsion Proceeding As O.W. Finds Representation**

Student was recommended for expulsion from school after being involved in a physical altercation with a peer. Because he was enrolled in special education, the school district held a "manifestation determination" team meeting to decide if his alleged misconduct was related to his disability. It found no relationship between the behavior and O.W.'s *learning* disability. Student's parent, who also attended the meeting, asked the district to consider O.W.'s *emotional* and *intellectual* disabilities. The district refused, and proceeded with a recommendation for expulsion.

PAI's investigation, on parental request, revealed that O.W. did in fact have other disabilities which were the root cause of the incident for which he was being expelled. PAI agreed to challenge the expulsion recommendation. At a mediation session which took place prior to the hearing, the district offered to terminate the expulsion proceeding and return O.W. to his prior placement without any conditions.

**Children and Youth:** Goal 3, Objective 3

**PAI Staff:** Taymour Ravandi

**Grant Funding Source(s):** PADD grant

### **After Two Years Of Home Schooling, D.H. Returns To School To Attend Class With His Nondisabled Peers**

Due to behavioral difficulties emanating from his disability, D.H. had been involved in numerous disciplinary incidents at school over the years. IEP meetings failed to result in appropriate educational and behavioral services. Meanwhile, D.H.'s behavioral incidents intensified and at the same time the school district and the parents became extremely polarized. Eventually, D.H. was removed from school. Because of the district's size and geography, no alternative school site was identified for him—even in another district. For the next two years, D.H. was home schooled, received an inadequate education and had no opportunity to be with his age- and grade-appropriate peers.

PAI challenged the district's refusal to allow D.H. to return to school, in a special education due process complaint. On the eve of hearing, following two rounds of intense mediation, the parties reached a settlement under which D.H. would return to his school and full-inclusion program and receive the assistance he needs, including a one-to-one aide who will assist D.H. with educational and behavioral needs.

**Children and Youth:** Goal 3, Objective 3

**PAI Staff:** Taymour Ravandi

**Grant/Funding Source:** PADD grant

### **School District Required to Provide Full Time Nurse to Administer Student's Emergency Medication**

Eight-year-old C.R. has been diagnosed with cerebral palsy and a seizure disorder. His seizures, which may last beyond five minutes, pose a threat of brain damage. However, an emergency medication (Diastat) may be administered during a seizure lasting beyond five minutes, stopping the seizure and greatly decreasing the risk of brain damage or other serious injury.

Diastat, which must be administered rectally, is "liquid valium" and does not pose a threat to the patient if overdosed. Also, as it is dispensed in pre-filled syringes, the medication administrator is not responsible for determining the dosage. The manufacturer of Diastat has determined that it can be safely administered by any person who has undergone minimal training.

C. R. has attended school in school district for three years, during which time his teachers, aides, and other staff have been trained to administer Diastat. But, prior to the beginning of the 2006-07 school year, the district informed C.R.'s parents that it would no longer allow non-nursing personnel to administer Diastat, and that in case of a seizure 911 would be contacted and C.R. would wait until paramedics arrived on the scene to administer the medication. CR's parents contacted PAI because due to the great risk of harm involved C.R. did not receive his medication promptly, they were extremely concerned about sending him to school without confirmation that Diastat would be administered in case of a seizure. C.R.'s parents would not send him to school unless a person on campus was allowed to administer Diastat. The District proposed to allow the student to attend a school with a licensed vocational nurse present on campus, but that school was not C.R.'s neighborhood school and would require him to transfer and be transported to and from that school.

The legal issue in this case involves the right under Individuals with Disabilities Education Act (IDEA) to receive related services to allow a student "to benefit from" the educational placement; this includes school nursing services.

PAI negotiated with the school district counsel and secured a licensed vocational nurse to be present at C.R.'s current school at all times that he was on campus--as well as at any outside school-related functions or events. The district also agreed to provide training and education about seizure disorders to all staff who work with C.R.

**Children and Youth:** Goal 1, Objective A

**PAI Staff:** Lauren Giardina

**Grant/Funding Source(s):** Equal Access, Southern California Children and Young Adult Initiative.

### **School District Retracts Expulsion of 8-Year-Old and Grants Special Education Eligibility**

G.W.'s mother contacted PAI because G.W., her 8-year-old son was being expelled from school for overly defiant behavior. He had been diagnosed with Attention Deficit Hyperactivity Disorder (ADHD) and Oppositional Defiant Disorder (ODD). Despite holding yearly student study team meetings to discuss his eligibility, G.W.'s school district did not find him eligible for special education services or a 504 plan.

Each of G.W.'s recent suspensions were due to oppositional behavior with adults—specifically involving his principal on the playground. However, his teacher reports that G.W. did not exhibit these behaviors in the classroom where he was both compliant and successful.

G.W.'s principal had proposed expulsion for excessive suspensions and a year long placement at an alternative school where G.W. was the only student younger than 12. His mother desired mainstream placement with positive behavior supports in unstructured settings. Under the IDEA, a student with a disability cannot be expelled due to his disability-related behavior.

At a May 3, 2007 emergency IEP meeting to review G.W.'s assessments, G.W.'s mother and a PAI attorney advocated for eligibility for special education, services and termination of expulsion proceedings. This was all agreed to by the District.

The District had proposed a home instruction placement on a 504 plan, rather than a mainstream environment, but eventually agreed to an Individual Education Plan (IEP) plan that called for placement in a mainstream elementary school setting, a behavior support plan, weekly counseling, and weekly speech and language therapy. As a student with an IEP, GW now has protections against excessive discipline that would include suspensions in excess of 10 days or expulsion for behaviors that are a “manifestation” of his disability. He is also guaranteed positive behavior supports.

**Children and Youth:** Goal 3, Objective A

**PAI Staff:** Lauren Giardina

**Grant/Funding Source(s):** Equal Access - Grant, Southern California Children and Young Adult Initiative.

### **T.C. To Stay in Regular Education Classroom For Remainder of Elementary Education**

In May 2006, School District filed a due process complaint against T.C., a 4<sup>th</sup>-grader w/ Downs syndrome who had been successfully included in a regular education classroom since kindergarten. Concerned with frequent vocalizations from the child---and complaints from other parents--the district had tried to persuade the parents to transfer T.C. to a special day class. When persuasion failed, the district decided to go to hearing.

The parents retained PAI as counsel. Mediation was unsuccessful, as the district was unwilling to continue to maintain T.C. in her current placement with supports for behavior and communication. Eventually, the district withdrew its complaint and agreed to a series of in-house and independent evaluations (behavior intervention, augmentative communication, speech and language). PAI and T.C.'s parents asserted that these were overdue and necessary to a successful placement. The evaluations and follow-up IEP meetings continued over a series of months and T.C. was assigned to a 5<sup>th</sup> grade classroom for 2006-07 with a second full-time teacher who was meant to assure T.C.'s inclusion in the curriculum, providing guidance and making adaptations as necessary.

While parents, PAI and school personnel were in the midst of modifying T.C.'s daily schedule, the district abruptly, for a second time, filed for a due process hearing in February 2007. PAI attempted—and failed-- to dismiss the complaint and then to obtain a mediation agreement. However, after preparing for hearing, the District made a settlement offer on the eve of hearing. District agreed to let T.C. remain in her 5<sup>th</sup> grade general education classroom and maintain her current daily schedule through the end of the school year and to continue to receive her current level of services. The parents were already prepared to place their daughter in a special day class at her neighboring middle school for 2007-08—and the settlement acknowledged this.

**Children and Youth:** Goal 1, Objective A

**PAI Staff:** Stephen Rosenbaum

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

### **Court of Appeals Denies Interpretation of “Stay Put” Rule**

PAI joined the Disability Rights Legal Center and Disability Rights Education and Defense Fund in filing an *amicus curiae*, or friend-of-the-court, brief with the Ninth Circuit Court of Appeals on behalf of a special education student in the Hayward school district. PAI served as one of the *amici* (friends) as well as one of the counsel.

The district court below had held that a student seeking to enforce the automatic “stay put” provisions of IDEA can lose his right to that protection by failing to identify the proper source of the relief he requests, and must exhaust his due process hearing remedies before seeking relief in federal court. PAI and the other *amici* argued that this interpretation goes against the law decided by other courts and Congress' intent in adopting the stay put provision. Under “stay put”

procedures, a child is maintained in his current classroom with the same level of services until the lawsuit is over.

In an unpublished decision, the Ninth Circuit upheld the district court decision. The 3-judge panel was not persuaded by the arguments presented by R.K. (student) or friend of the court. The Court ruled that by dismissing the Office of Administrative Hearings (OAH) due process hearing, the student had failed to “exhaust his administrative remedies” and did not believe it would be “futile” for R.K. to continue with the OAH hearing.

**Children & Youth:** Goal 3, Objective A

**PAI Staff:** Stephen Rosenbaum

**Other Counsel:** Principal Author of Brief: Ted Dane, Munger Tolles & Olson (*Pro Bono*); Paula Pearlman, Disability Rights Legal Ctr/Loyola of Los Angeles Law School

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

## EMPLOYMENT

### J.D. Receives Assistance at Social Security Administration Personal Conference.

J.D. completed her Trial Work Period. During her extended period of eligibility she received benefits, although she earned and performed substantial gainful activity. She received a small overpayment and she made arrangements to pay it back. Eventually, she had to cease working, so her benefits were reduced to pay back the overpayment. About two years later she wanted to return to work. However, she was afraid of getting another overpayment. So, before she returned to work she visited her local Social Security Administration (SSA) office. The local field office representative explained to client that she was entitled to another work trial period, which was incorrect.

J.D. returned to work. Eventually, the company she worked for was sold. She had problems with the new owner, who did not provide her with the accommodations that were previously provided by the former owner. Ultimately, she was terminated when she called in sick. J.D. continued to receive Social Security Disability Income (SSDI) benefits throughout her work activity and after she was terminated. Her benefits never ceased during the time she worked, although she was earning Substantial Gainful Act (SGA) and was within her extended period of

eligibility. During the extended period of eligibility Title II beneficiaries are not eligible for cash payments for any month they earn SGA.

In October 2002, J.D. was asked by SSA to complete a work activity report. The following month, she was informed that her benefits were increasing due to her work activity. Eventually she was told that she was not entitled to benefits and that she had a \$33,000.00 overpayment. J.D. filed for Expedited Reinstatement of Benefits (EXR). This provision allows former beneficiaries who are no longer eligible for cash benefits due to work activity and are past their extended period of eligibility to be placed back on benefits provisionally for 6 months, while SSA conducts a Continuing Disability Review (CDR). Once the CDR is completed, the beneficiary is entitled to benefits retroactively for one year from their request for Expedited Reinstatement. J.D. was reinstated. However, since EXR only goes back one year, J.D. is being asked to pay back an overpayment for a period of time when she did not earn SGA.

J.D. filed a request for waiver. SSA scheduled a personal conference. A PAI advocate attended the personal conference. However, SSA decided not to waive the overpayment. Client's next step is to file a hearing with an administrative law judge.

**Employment:** Goal 3, Objective A

**PAI Staff:** Aleyda Toruno

**Grant/ Funding Source:** PABSS

### **S.M. Gets Reasonable Accommodations for State Exam**

*S.M. v. Board of Behavioral Sciences (BBS)*

S.M. has a visual disability. In order to be a licensed therapist (Marriage, Family Therapist), she is required to take a state licensing exam administered by the Board of Behavioral Sciences. Prior to the examination, S.M. requested reasonable accommodations. She requested and was granted double time to take the test and a reader/scribe was provided to assist her during the exam. However, the reader/scribe at the exam was not effective. He/she was unable to pronounce many of the psychology terms in the exam. S.M. failed the exam. She was given a second opportunity to take the exam. However, the reader/scribe during the second exam did not understand the computer program that was being used on the exam and was unable to locate questions that the client had decided to skip and come back and review. The reader/scribe was also not familiar with the psychology terms in the exam. S.M. failed the exam. She was given a third

opportunity to take the exam. However, S.M. requested that our office help with requesting reasonable accommodations, including accommodations for her physical disability that she had not requested previously.

Under Title II of the ADA, a public entity offering an examination must modify its policies, practices, or procedures in order to provide an individual with a disability an equal opportunity to demonstrate his or her knowledge or ability. 28 CFR Part 35.130

The PAI advocate wrote a letter explaining that S.M.'s need for effective accommodations. The accommodations requested: 1) A reader/scribe that was familiar with the terminology on the exam; and 2) S.M. be allowed her Braille writer. This was the equivalent of using paper and pen to take notes. All other exam takers were allowed pencil and paper with the understanding that their notes would be sequestered; 3) Breaks during the exam that did not count against the time given for the exam in order to administer her medications and to stretch from prolonged sitting due to her physical disability. S.M. provided documentation from her doctor that explained her physical disability and limitations and the need for the new accommodations. BBS agreed to the accommodations, including hiring a licensed MFT to be the reader/scribe.

**Employment Workgroup:** Goal 1, Objective A

**PAI Staff:** Aleyda Toruno

**Grant/ Funding Source:** PABSS

### **Client Receives Assistance to File a Formal Internal Disability Discrimination Complaint with her Community College Employer**

#### *L.P. v. Community College*

L.P. commenced working for a community college as a campus officer. Her job included providing security at campus events and issuing parking citations. Prior to working and going to school, client had lived in seclusion for about 5 years due to post-traumatic stress disorder (PTSD). Working and going to school at the college were the first steps to her re-immersion back into society. Prior to working she explained her disability and limitations to her supervisor. She explained that she could not be sent to work at another campus. She needed to work in a familiar and known environment due to her PTSD. She was assured by her supervisor that she would not need to go to another campus.

L.P. began to have problems with her supervisor. As a result, the supervisor attempted to send L.P. to another campus. Eventually, her supervisor revealed L.P.'s disability to her co-workers. When L.P. complained to a second supervisor, she was laid off from her job. L.P. tried to file a complaint with human resources. But, her request was ignored. Eventually, she found out how to file a formal internal complaint with her employer. L.P. asked PAI for assistance to help her file her formal complaint.

Under Title 1, of the Americans with Disabilities Act (ADA), no covered entity shall discriminate against a qualified individual with a disability because of the disability of such individual in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment. 42 U.S.C. §12112. Additionally, under the ADA employers can not disclose medical information to co-workers about another co-worker's disability.

A PAI advocate helped L.P. formulate her formal discrimination complaint against her employer. L.P. was also advised on how to file complaints with the EEOC and the DFEH.

**Employment Workgroup:** Goal 2, Objective A

**PAI Staff:** Aleyda Toruno

**Grant/ Funding Source:** PABSS

**A.W. Gets Reimbursed for School Tuition, Books and Transportation as Agreed Upon in her Individualized Work Plan.**

*A.W. v. The California Department of Rehabilitation*

Client was receiving services through the Department of Rehabilitation. Her employment goal in the IWP was to get training in Customer Service. Eventually she was dissatisfied with this employment outcome. Client's counselor did not think that she could accomplish her desired goal- a degree in computer network technology. Nevertheless, client began going to a private school to get a degree in computer network technology. Eventually, client received assistance from the CAP advocate to help her advocate for a new employment outcome in her IWP. At this meeting DOR agreed to amend her IWP. Her new employment outcome was to get an AA degree in computer network technology. DOR agreed to partially fund her school tuition at the private school. They also agreed to help pay for books, supplies and a bus pass. Client continued with her schooling. However, DOR

decided to close her case because she had been unresponsive to requests for information such as current transcripts, program curriculum requirements, and financial aid information. Client was issued a closing letter. DOR cited Section 7179.3. Under this section a DOR client's case may be closed if the Department determines that the individual...Fails to cooperate at any point in the vocational rehabilitation program, including repeated failure to keep appointments, maintain regular contact with the Rehabilitation Counselor, or carry out other responsibilities associated with participation in the program specified in Section 7029.9 of these regulations. 7179.3 (a)(6)C.C.R.

Client disagreed with her case being closed. She had complied with providing the information she needed to give to her counselor. She had a school counselor who also was in communication with her DOR counselor and providing the necessary information. Client had even graduated from the private school with honors.

PAI took on representation and filed an administrative review with DOR. The client asked that her case not be closed and that her IPE be amended to reflect a B.S. in Computer Network Technology. The DOR director denied the review. PAI then filed a hearing with the Appeals Board and requested mediation. DOR agreed to a mediate. At the mediation DOR agreed to reimburse client for the tuition, books, supplies and transportation that was promised. However, DOR did not agree to keep her case open or amend her IPE. Therefore, a hearing regarding whether client's case should be closed, whether the IPE should be amended will be the issue at the hearing.

**Employment Workgroup:** Goal 3, Objective A

**PAI Staff:** Aleyda Toruno

**Grant/ Funding Source:** PABSS

## LANTERMAN

### **PAI Succeeds in Getting Appropriate Employment Support for J.S.**

J. S. is a 40-year-old client of the Regional Center, who resides in her own apartment. She has a diagnosis of autism and is largely non-verbal. She receives 1:1 Supported Living Services (SLS) from 3:30 p.m.- 8:30 a.m., and community based day program services at a 2:1 or 3:1 ratio from 8:30 a.m. - 3:30p.m. J. S. uses her day program services to support her in her employment at Marshall's and OSH Hardware, where she has worked 8 and 5 years, respectively. Because of a

series of incidents at work and in the community over the past year, J. S.'s service provider recommended an increase in her staffing ratio during the day. The regional center denied the proposed service increase in a letter dated January 22, 2007, on the basis that it was not cost effective; WRC did not offer any alternatives. Through her mother and conservator, J. S. appealed the regional center's decision. PAI represented J. S. at an informal meeting on March 27, 2007, arguing for her right to receive the support she needs in her employment and day activities. After extensive advocacy by PAI and by her SLS provider, on August 1, 2007, the regional center agreed to fund the 1:1 support that J.S. wants and needs.

**Lanterman:** Goal 2, Objective A

**PAI Staff:** Anna Levine

**Grant/Funding Source:** PADD

### **PAI Advocates On Behalf of J.G. When He was Improperly Terminated from Day Program**

J.G. is a 22-year-old man with autism, a seizure disorder, and medical needs. He spent years in institutions before successfully transitioning into the community several years ago with the assistance of strong advocacy from his mother, the caregivers in the 3-person group home where he lives, and his regional center. J.G. has attended an adult day program since graduating from high school in 2006. As an accommodation for his disabilities, he receives 1:1 support in the day program, funded by the regional center. Reports from the day program over the past year have indicated that he is doing well. At the end of June, however, the day program sent J.G. a termination letter stating that he would have to leave within 14 days because the day program could not meet his needs. Specifically, the day program claimed that J.G.'s need for 1:1 support means that he does not meet the day program's eligibility requirements, since it provides care in a group setting. PAI filed a formal grievance against the day program and requested a meeting with its CEO, at which PAI represented J.G. Following the meeting, the day program revised its termination date to 60 days. In keeping with the wishes of his circle of support, PAI is assisting J.G. in locating a program that will not discriminate against him, but has indicated to the day program that it continues to believe that the day program's actions violate California regulations and Title III of the ADA. This matter is ongoing.

**Lanterman:** Goal 3, Objective A

**Anti-Discrimination:** Goal 2, Objective A

**PAI Staff:** Anna Levine

**Grant/Funding Source:** PADD

**Appellate Hearing Held September 7, 2007; Case Stayed Pending Appeal**

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

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

*See* previous DOL report, Spring 2007. *Also see* DOL Report, Spring 2002 for a summary of the case.

*Capitol People First* was filed as a class action seeking community living arrangements for approximately 8,000 Californians with developmental disabilities who are residents of the developmental centers or other large congregate facilities and people at risk of placement in such facilities.

In December 2005, the Alameda County Superior Court denied plaintiffs' motion for class certification. Plaintiffs have appealed that decision. A stay of trial proceedings has been granted pending appeal. The Court of Appeal ruled against state defendants in their motion to dismiss the appeal based on lack of appellate jurisdiction.

Two groups of prestigious disability rights and legal services agencies filed *amici curiae* (friend of the court) briefs in supporting plaintiffs in the court of appeal. The appellate hearing was held on August 7, 2007. Eric Gelber, Managing Attorney of PAI's Sacramento office, presented the oral argument on behalf of plaintiffs, and Brad Seligman, Executive Director of the Impact Fund, presented the oral argument on behalf of *amici curiae*. The state defendants and intervenors also presented oral arguments.

The Court of Appeal has a maximum of 90 days from the date of the hearing to make a decision. Once that decision is made, either the losing side will ask the California Supreme Court to overturn the Court of Appeal's decision or the case will return to the trial court. We anticipate that once the case returns to the trial court, it will go to trial within one year.

**Lanterman Act:** Goal 1, Objective A

**Counsel for PAI:** Barbara Dickey, Sujatha Jagadeesh Branch, Eric Gelber, Ellen Goldblatt, Maggie Roberts, Dara Schur

**Outside Co-counsel:** Michael Pyle, Chris O'Connor, Bingham McCutchen; Michael Tracy, DLA Piper

**Grant/Funding Source(s):** PADD, PATT, Equal Access

**J.G., a Regional Center Applicant, Seeks Eligibility Determination Based on Traumatic Brain Injury under the “Fifth Category”**

J.G. was denied eligibility by the regional center. He appealed the decision and ultimately obtained a private pro-bono attorney to represent him. His attorney had never done a regional center hearing and knew little about the regional center system and developmental disabilities in general. PAI agreed to provide technical assistance on the case. J.G. had a series of traumatic brain injuries in his mid-teenage years. Now in his late 20s, J.G. lives in a nursing facility for people with traumatic brain injury (TBI). The regional center has historically taken a very hard-line position against TBI-based fifth category applicants, and J.G. was no exception. 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. After interviewing several of his doctors, PAI concluded that he presented a strong case for eligibility. PAI provided technical assistance to the attorney and his assistant on general developmental disability issues, regional center eligibility, TBI, and procedural aspects of the Individual Program Plan (IPP) process. PAI also provided technical assistance on presenting a fifth category eligibility case. The decision is pending.

**Lanterman:** Goal 3, Objective A

**PAI Staff:** Jonathan Elson

**Grant/Funding Source:** PADD

**Outreach and Training to Yolo Family Resource Center**

PAI did an outreach and training to staff of Yolo Family Resource Center (Yolo FRC) which serves low income families of Yolo County. The staff works with underserved communities, assisting families with a variety of issues including general social services. Many of Yolo FRC's clients are monolingual Spanish-speakers. PAI trained the staff on the Lanterman Act, including information on regional centers, the Individual Program Plan (IPP) process, services available, and the fair hearing process. Information on IPPs, regional center services, and PAI was provided in both English and Spanish.

**Lanterman:** Goal 3, Objective D; Goal 1, Objective D; Goal 5

**PAI Staff:** Jonathan Elson

**Grant/Funding Source:** PADD

### **PAI Assists B.T. to Obtain Wheelchair and Culturally Appropriate Services and Supports from the Regional Center**

See description under Benefits, above.

### **C. Gets a Safety Evaluation for Assistive Technology to Assist Him to be Transported in the Community**

See description under Benefits, above.

## **MENTAL HEALTH**

### **PAI Conducts Outreach and Focus Group in Coalinga State Hospital**

On June 12 & 13, 2007 PAI conducted outreach to approximately 70 residents of Coalinga State Hospital on issues involving patients' rights. The focus of the outreach was the rights of psychiatric patients to adequate medical care. PAI staff provided the residents with informational materials on patients' rights, and distributed surveys on the rights to medical care and access to telephones. PAI staff are currently compiling the data that they received from those surveys, and looking into possible avenues for following up on those issues.

**Rights in Facilities:** Goal 1, Objective D  
**PAI Staff:** Pamela Cohen  
**Grant:** Equal Access – Rights in Facilities

### **PAI Advocates for A.B., who Resides in a Board and Care, to Receive Appropriate Discharge Planning Services and Placement in Less Restrictive Environment**

A.B. is a young adult who, with the assistance of PAI, transferred last April from a locked facility to an enriched Board and Care. After learning that the client's placement at the Board and Care was no longer successful, PAI engaged in discussions and negotiations with the A.B.'s conservator Los Angeles County Department of Mental Health representatives, and treatment staff to advocate for A.B. to be transferred to a less restrictive environment rather than to be moved back to a locked facility. In July of 2007, A.B.'s conservatorship was terminated

and A.B. now resides at her grandmother's house. PAI will continue to advocate for A.B. to ensure she receives compensatory education services and appropriate, community-based services and supports.

**Rights in Facilities:** Goal 3, Objective A

**PAI Staff:** Matthew Fishler, Sage Reeves, Keith Sakimura, Mike Jonas (Law Clerk)

**Grant/Funding Sources(s):** PAIMI

### **PAI Conducts Clinic at Club House for Homeless Persons with Mental Disabilities**

On July 18, 2007, PAI conducted a legal clinic in downtown San Diego at the Friend-to-Friend clubhouse which serves a mostly homeless population of people with mental disabilities. About 12 people participated in the clinic, about half persons of color.

PAI provided an overview of PAI services and provided advice to several individuals regarding issues related to public benefits (SSI, Medi-CAL, and County Mental Health services) and affordable housing.

**Rights In Facilities:** Goal 2, Objective D

**PAI Staff:** Ann Menasche and Charlena Washington

**Grant:** PAIMI

### **PAI Collaborates with Other Agencies to Submit Public Comments to Regulations Affecting Access to Mental Health Services by Children and Youth in Foster Care System**

In June of 2007, the Department of Mental Health issued a notice that it was proposing amendments to its regulations in order to "ensure access to outpatient mental health services for foster children placed outside of their county of origin." PAI reviewed the proposed regulation and was concerned that the regulations were too narrowly written to ensure the children in the foster care system had access to mental health services. PAI collaborated with other stakeholders, including a representative of children's mental health providers and the chair of a longstanding multi-agency task force, to address the access problem involving children placed out of county. PAI prepared and submitted comments to these regulations, along with others, including specific proposals for amending the proposed regulations so that they could achieve their purpose of ensuring access to mental health services.

Approximately 20,000 children within California foster care system are placed outside their county of origin every year, many of them in group homes and other residential facilities, and at least half of these children and youth have significant mental health needs.

**Rights In Facilities:** Goal 2, Objective B; Goal 3, Objective D

**PAI Staff:** Maggie Roberts

**Grant:** PAIMI

## **PERSONAL AUTONOMY**

### **PAI Commented on Secretary of State Debra Bowen’s “Top-to-Bottom Voting Systems Review” Final Accessibility Report at the July 2007 Public Hearing**

In July 2007, Secretary of State Debra Bowen concluded her “Top-to-Bottom” review of the Diebold, Hart, and Sequoia electronic voting systems used by many of California’s counties. The review included security and accessibility testing components. At the onset of Secretary Bowen’s review, she indicated that non-compliance with security or accessibility requirements could lead to decertification of the voting systems. PAI was concerned that decertification of all or any of the systems would prevent countless Californians with disabilities from exercising their right to an accessible, private, and independent vote.

The final accessibility report issued by Secretary Bowen’s experts concluded that the Diebold, Hart, and Sequoia systems were all out of compliance with the Help America Vote Act’s accessibility requirements and with the 2005 Voluntary Voting Systems Guidelines. The report also stated that a number of mitigating measures could be adopted to fix many of the access problems. The accessibility problems discovered by the experts, such as wheelchair inaccessibility, ineffective and sharp privacy curtains, and insufficient poll worker training, were not new to PAI or to the disability community. PAI and a coalition of fellow disability advocacy groups had previously brought these concerns to the attention of Secretary Bowen shortly after her inauguration, and to former Secretary of State Bruce McPherson.

Secretary Bowen sought comment from the public about the accessibility report. In response, PAI testified at the public hearing. In a letter and at the hearing, we urged Secretary Bowen to adopt short term measures to address the accessibility problems before the 2008 elections as an alternative to decertification. For the

long term, we urged her to actively seek out, review, and certify new technologies and voting systems to increase privacy, independence, and accessibility for Californians with disabilities.

PAI's Top-To-Bottom Review written Public Comment and Testimony can be found at:

[http://www.sos.ca.gov/elections/voting\\_systems/ttbr/archive/index\\_ph.htm](http://www.sos.ca.gov/elections/voting_systems/ttbr/archive/index_ph.htm)

**Personal Autonomy:** Goal 3, Objective B

**PAI Staff:** Hillary Sklar; Michelle Uzeta; Brandon Tartaglia

**Grant/Funding Source(s):** PAVA; PAAT

**PAI Joined Fellow Disability & Language Access Voting Rights Groups To Oppose Decertification of the Diebold, Hart, and Sequoia Voting Machines**

In addition to PAI, a number of other disability and language access voting rights advocacy groups also testified at Secretary Bowen's "Top-to-Bottom" review hearing. These groups were also concerned that numerous Californians with disabilities would be prevented from voting in the 2008 elections if Secretary Bowen decertified the Diebold, Hart, and Sequoia voting machines without replacing these systems with accessible ones.

Along these lines, PAI met with the Asian Pacific Law Center, the California Council for the Blind, the California Foundation for Independent Living Centers, the Disability Rights Legal Center, FREED Center for Independent Living, the Independent Living Resource Center, and the League of Women Voters of California and joined in a letter opposing decertification and supporting the mitigating measures mentioned above.

In the letter, we pointed out that decertification would result in decreased access for voters with disabilities and limited English proficiency.

**Personal Autonomy:** Goal 3, Objective B

**PAI Staff:** Hillary Sklar

**Grant/Funding Source(s):** PAVA; PAAT

## **PAI Monitors County Trend to Replace Electronic Voting Systems with Paper Only Ballots**

Federal law requires California's voting systems to be accessible to voters with disabilities. Federal law also mandates that voters with disabilities shall have a private and independent vote. State law requires voting systems to be accessible for voters with blindness and/or other vision disabilities. For some time now, PAI has monitored California's 58 counties for compliance with federal and state law. Over the years, PAI staff has also met with many County Election Officials in an advisory role and has also addressed concerns we have had with Counties' access barriers at poll sites and with voting systems such as paper ballots.

Recently, PAI has noticed a desire by some Counties and also some state legislators to move California away from electronic voting systems, which often offer many accessibility features, back to all-paper ballots which are inaccessible to voters with manual dexterity and/or vision disabilities.

One such county we are monitoring is Riverside County. Recently, the Riverside Board of Supervisors voted to adopt the recommendation of their Election Commission to become a paper ballot only county. PAI has noted that the Commission also advised the County to retain some accessible voting poll sites. PAI is monitoring Riverside to ensure the rights of voters with disabilities under federal and state law will be met.

**Personal Autonomy:** Goal 3, Objective B

**PAI Staff:** Hillary Sklar; Michelle Uzeta; Garnet Magnus

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

## **PAI is Working with Fellow Voting Advocacy Groups to Prepare for the 2008 Elections**

PAI is a member of two California voting rights coalitions as well as the National Disability Rights Network Voting Rights Workgroup. PAI meets on a regular basis with members of these groups which include Protection & Advocacy organizations in other states, the California Council for the Blind, the California Foundation for Independent Living Centers, the Disability Rights Legal Center, FREED Center for Independent Living, the Independent Living Resource Center, the Asian Pacific Law Center, the League of Women Voters of California, the National Association of Latino Elected and Appointed Officials (NALEO), the Mexican American Legal Defense and Education Fund (MALDEF), the National

Association for the Advancement of Colored People (NAACP), and Common Cause.

In anticipation of the general and primary elections in February, June, and November 2008, PAI is meeting with these groups to discuss strategies to address the rights of Californian's with disabilities regarding polling place accessibility, voting system and ballot accessibility, access to voter registration, and preservation of the right to vote, among others.

**Personal Autonomy:** Goal 3, Objective B

**PAI Staff:** Hillary Sklar

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

### **Negotiation with Conservator and County Counsel Keeps J.D. in her Home County**

J.D. is conserved by the County Public Conservator's office. J.D. was hospitalized at the county acute psychiatric hospital after being removed from a private psychiatric hospital (Institution for Medical Disease, or IMD). There was a concern that her conservator was looking to place her in another county, which would have isolated her from her family.

PAI entered into negotiations with the conservator and county counsel's office to discuss least restrictive environment placement under Olmstead. The conservator found placement in a local IMD. A meeting was set-up to help the parents understand the conservator's role and reestablish communication that broke down between the parents and the conservator after J.D.'s removal from her previous IMD.

**Personal Autonomy:** Goal 1, Objective A

**PAI Staff:** Sean Rashkis

**Grant/Funding Source:** PAIMI

## **GLOSSARY OF SELECTED TERMS**

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

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

### **AB 2726/3632**

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

### **“ADHD” or ATTENTION DEFICIT-HYPERACTIVITY DISORDER**

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

### **ALTERNATIVE DISPUTE RESOLUTION (ADR)**

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

### **AMICUS CURIAE**

PAI 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 PAI 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 PAI appears as an *amicus curiae*, PAI 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. (Compare with MEDIATION.)

## **BEHAVIOR INTERVENTION PLAN**

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

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

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

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

## **“BWE” or BLIND WORK EXPENSES**

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

## **CALWORKS**

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

## **“CDR” or CONTINUING DISABILITY REVIEW**

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

## **“CI” or COUNTABLE INCOME**

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

## **CLASS ACTION**

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

## **CONSERVATOR, CONSERVATEE and CONSERVATORSHIP**

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

## **COURT APPOINTED SPECIAL ADVOCATES (CASA)**

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

## **“CYA” or CALIFORNIA YOUTH AUTHORITY**

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

## **DAMAGES**

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

## **DECLARATION**

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

## **DECLARATORY JUDGMENT**

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

## **DEMURRER**

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

## **DEPOSITION**

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

**“DDS” or CA DEPARTMENT OF DEVELOPMENTAL SERVICES**

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

**“DFEH” or DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING**

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

**“DHS” or CA DEPARTMENT OF HEALTH SERVICES**

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

**DISCOVERY**

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

**DISMISSAL WITH PREJUDICE**

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

**DISMISSAL WITHOUT PREJUDICE**

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

**“DMH” or CA DEPARTMENT OF MENTAL HEALTH**

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

**“DOE” or DEPARTMENT OF EDUCATION**

**“DSS” or CA DEPARTMENT OF SOCIAL SERVICES**

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

## **DYSAUTONOMIA**

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

## **“EA” or EQUAL ACCESS**

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

## **ELLIS ACT**

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

## ***EN BANC***

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

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

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

## **EXCEPTION PAYMENT**

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

## **“EXR” or EXPEDITED REINSTATEMENT**

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

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

### **“EPE” or EXTENDED PERIOD OF ELIGIBILITY**

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

### **FAIR HEARING**

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

### **FAIR MARKET RENT (FMR)**

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

### **“FIFTH CATEGORY” REGIONAL CENTER ELIGIBILITY**

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

### **FORENSIC**

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

### **“G-TUBE” or GASTROSTOMY TUBE**

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

### **GUARDIAN AD LITEM**

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

### **GUARDIANSHIP**

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

### ***HABEAS CORPUS***

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

### **"HHS" or HEALTH & HUMAN SERVICES**

HHS is the federal agency overseeing health and human services.

### **"HIPAA" or HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT**

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

### **"HOUSING CHOICE VOICHER" OR "SECTION 8"**

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

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

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

### **"ICF-DD-N" or INTERMEDIATE CARE FACILITY DEVELOPMENTALLY DISABLED-NURSING**

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

### **“IDEA” or INDIVIDUALS WITH DISABILITIES EDUCATION ACT**

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

### **“IEP” or INDIVIDUALIZED EDUCATION PROGRAM**

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

### **“IHSS” or IN-HOME SUPPORTIVE SERVICES PROGRAM**

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

### **“IMD” or INSTITUTION FOR MENTAL DISEASE**

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

### **IMPLIED WARRANTY OF HABITABILITY**

The right to get an apartment in good condition.

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

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

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

### **INDIAN CHILD WELFARE ACT (ICWA)**

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

### **INJUNCTION**

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

### ***IN FORMA PAUPERIS (IFP)***

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

### ***IN PROPIA PERSONA (IN PRO PER)***

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

### **INTERROGATORIES**

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

### **INTERVENOR**

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

### **“IOLTA” or INTEREST ON LAWYERS TRUST ACCOUNTS**

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

### **“IPP” or INDIVIDUAL PROGRAM PLAN**

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

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

### **“IRWE” or IMPAIRMENT RELATED WORK EXPENSES**

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

### **JUDGMENT (JUDGEMENT)**

The judge's final decision in a case.

### **LANTERMAN ACT**

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

### **LEVEL 14 GROUP HOME PLACEMENTS**

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

### **“LPS” or Lanterman-Petris-Short ACT**

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

### **MANIFESTATION DETERMINATION**

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

### **MEDI-CAL (See Medicare)**

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

### **MEDICARE (See Medi-Cal)**

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

### **MOTION**

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

### **“MSSP” or MULTIPURPOSE SENIOR SERVICES PROGRAM**

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

### **NURSING FACILITY WAIVER**

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

### **“OCRA” or OFFICE OF CLIENT’S RIGHTS**

### **“ODD” or OP POSITIONAL 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, PAI received limited funds under the Protection and Advocacy for Assistive Technology (PAAT) Act to increase access to assistive devices and equipment.

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

Under the Protection and Advocacy for Beneficiaries of Social Security (PABSS) Act, PAI 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, PAI 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 PAI’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 PAI’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. PAI 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 PAI'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 PAI “*pro bono*” – without charge to clients.

### ***PRO PER***

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

### ***PRO SE***

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

### **PROTECTIVE SUPERVISION**

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

### **PURCHASE OF SERVICES (POS)**

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

### ***RIESE HEARING***

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

### **REGIONAL CENTERS**

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

### **SECTION 8**

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

### **SELF-DIRECTED SERVICES**

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

### **"SELPA" or Special Education Local Plan Area**

The Special Education Local Plan Area (SELPA) is an administrative unit under California law that joins together one or more local school districts in a geographic area. This allows districts to share in the coordination, funding, personnel or other administration of services for special education students. School districts with large populations usually stand alone as a single-district SELPA.

### **"SGA" or SUBSTANTIAL GAINFUL ACTIVITY**

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

There are two criteria that determine SGA: (1) Substantial activity: work that involves doing significant physical or mental work, or a combination of both, that is productive and for profit. (2) Gainful work activity: work performed for pay or

profit; work of a nature generally performed for pay or profit; or work intended for profit, whether or not a profit is realized.

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

### **“SRO” or Single Room Occupancy**

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

### **“SSI” or Supplemental Security Income**

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

### **STATUTE**

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

### **STATUTE OF LIMITATIONS**

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

### **STAY**

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

### **SUMMARY JUDGMENT**

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

### **TEMPORARY RESTRAINING ORDER (TRO)**

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

### **“TBS” or THERAPEUTIC BEHAVIORAL SERVICES**

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

### **TRANSCRIPT**

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

### **“TWP” or TRIAL WORK PERIOD**

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

### **UNRUH CIVIL RIGHTS ACT**

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

### **WRIT**

A court order that says certain action must be taken.

### **WRIT OF MANDATE**

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

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